

**Nearshore Marine
Resources Program:**

**Municipal Shellfish
Co-Management**

Outline

1. Municipal Shellfish Program Overview
2. Ordinance and Ordinance Amendments
3. Shellfish Committee
4. Residency Requirements
5. Licensing Rules
6. Conservation Activity Permits
7. Annual Review and Budget Reporting
8. Mini-Grant Options

Municipal Shellfish Program Overview

- ▶ **The shellfish resource belongs to the people of the State of Maine.**
- ▶ Towns may choose to take on the responsibility of managing their **intertidal shellfish resources**, by adopting and enforcing a town shellfish conservation ordinance.
- ▶ DMR Scientists in the Nearshore Program work with towns to ensure they are managing their shellfish resources according to state law and regulations.
- ▶ **This is Co-Management**

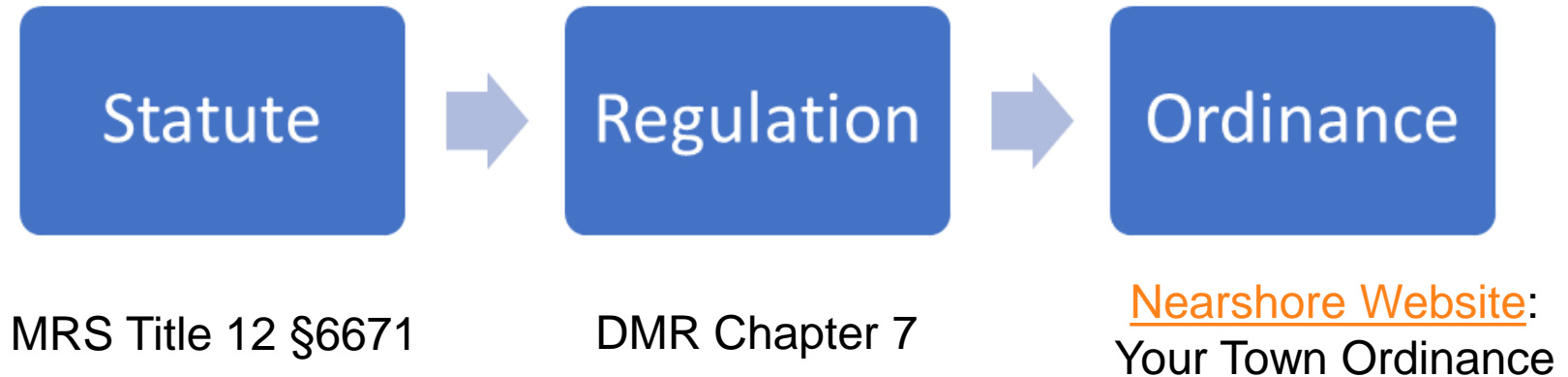
[Nearshore Website:](#)

Meet your Marine
Resource Scientist

The Laws

There are three bodies of law under which municipal shellfish management programs operate.

- State Statute
- Department Regulation
- Municipal Ordinance



Towns can manage up to six species of shellfish



(DMR Chapter 7.10)

Towns can manage up to six species of shellfish

Surf/Hen clams
(*Spisula solidissima*)



European oysters
(*Ostrea edulis*)



American oysters
(*Crassostrea virginica*)



(<https://www.discoverwildlife.com/animal-facts/insects-invertebrates/facts-about-european-native-oysters>)

(DMR Chapter 7.10)

Towns cannot manage blue mussels



(§6671 (12), DMR Chapter 7.70)

DMR Regulation Chapter 7

DEPARTMENT OF MARINE RESOURCES - PROCEDURAL RULES

CHAPTER 7

REQUIREMENTS FOR MUNICIPALITIES HAVING
SHELLFISH CONSERVATION PROGRAMS

TITLE INDEX

7.10	Definitions
7.20	Shellfish Management Plan
7.30	Management Responsibilities
7.35	Revocation of Municipal Shellfish Conservation Ordinance
7.40	Municipal Licensing of Shellfish Harvesters
7.50	Municipal Shellfish Conservation Activities
7.70	Intertidal Mussel Harvesting by Drag or Dredge
7.80	Municipal Aquaculture Activities Report

- Establishes the criteria for adopting an ordinance
- Only impacts municipalities/regional programs with shellfish conservation programs.

Chapter 7 Requirements

7.20 Shellfish Management Plan



[Nearshore Website:](#)
Shellfish Management Plans

Chapter 7 Requirements

7.30 Management Responsibilities

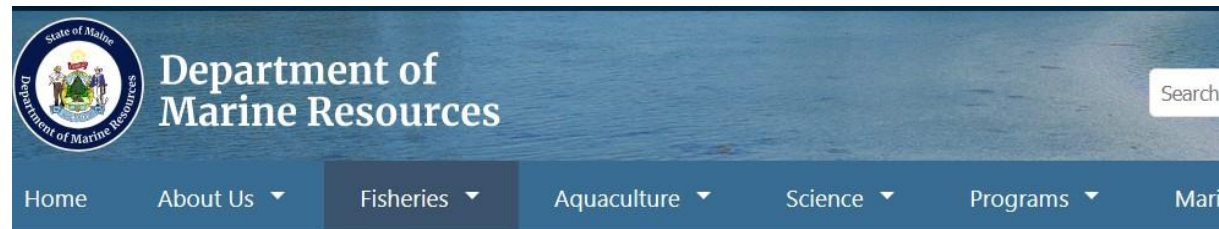
These are required once per year:

➤ **Annual Shellfish Management Review**

- Due by April 1st

➤ **Allocation Request**

- Due 30 days prior to license sales



Fisheries
Commercial Fishing
Recreational
Shellfish
Closures
Shellfish Closures and Aquaculture Leases Map
Bureau of Public Health Programs
Shellfish Sanitation

Nearshore Marine Resources Forms

Municipal Shellfish License Allocations

- [Municipal Shellfish License Allocation Request](#)

Shellfish Management Plan

- [2023 Shellfish Management Plan Template](#)
- [2023 Shellfish Management Plan Letter](#)

Annual Review Packet Information

- [Annual Review Cover Letter](#)
- [Annual Review Instructions](#)
- [Annual Review Form](#)

7.30 Management Responsibilities

Shellfish Resource Survey

- May be required prior to major changes such as reduction or increase in number of licenses.
- Using DMR approved methods



Photo Credit: Hannah Annis

Chapter 7 Requirements

7.30 Management Responsibilities

Enforcement: A town must enforce their municipal shellfish conservation ordinance by a Department certified Shellfish Warden.

Municipal Shellfish Conservation Warden

A town with a municipal shellfish ordinance must enforce that ordinance. Municipal conservation shellfish wardens are hired by the town(s) to patrol flats, ensure diggers are properly licensed, and ensure digging activities are safe and legal.

**Marine Patrol
does NOT enforce
municipal shellfish
conservation
ordinances!**

Regulations regarding Municipal Shellfish Conservation Wardens

- Wardens need to comply with [DMR Chapter 4 Regulations](#).

Warden Certification Application

Applicants who want to become a municipal shellfish conservation warden must fill out and submit an application and provide proof of the Maine Criminal Justice Academy Phase 1 law enforcement training. Select this link to download the application: [Municipal Shellfish Conservation Warden Application \(PDF file, 1 page\)](#).

Ordinance & Ordinance Amendments

Municipal Shellfish Conservation Ordinances:

- Create the town-specific laws of shellfish harvesting within the intertidal zone of that town
 - Must agree with state law & DMR regulation
- Define what shellfish species the town manages
 - Only these species require a municipal shellfish license
- Define all types of shellfish licenses sold by the town
- Describe the license application process

[Nearshore Website:](#)
Your Town Ordinance

Ordinance & Ordinance Amendments

Municipal Shellfish Conservation Ordinances:

- Sometimes set limitations that are stricter than state law (ie – no night harvesting; minimum size that is larger than state minimum size, etc)
- Describe the town process for conservation closures
- State any requirements for harvesters to perform conservation work
 - *Conservation work is not a state requirement*
- Describe the Shellfish Conservation Committee (if there is one)
- Define penalties for violation of the ordinance

[Nearshore Website:](#)
Your Town Ordinance

Ordinance & Ordinance Amendments

Creating or Amending a Shellfish Ordinance:

- **Talk with your Marine Resource Scientist**
 - They can provide examples!
 - They will make sure that you are following MRS Title 12 §6671 and DMR Chapter 7.
- *Usually* the Shellfish Committee votes on the ordinance or amendments before:
- The town approves the ordinance by Town Meeting, Town Council, or Selectboard
- Send a **clean** copy of the town-approved amended ordinance, **certified** by the Town Clerk to your Marine Resource Scientist within 20 days of adoption
- DMR will issue an approval letter to the town and will post the ordinance on our website

§6671 5. **Period of Ordinance** ‘... A certified copy of the ordinance or amendment to the ordinance **must be filed with the commissioner within 20 days of its adoption**. If a copy of the ordinance or an amendment to the ordinance is not filed within 20 days, the ordinance reverts to the ordinance previously in effect until the new ordinance or amendment is filed.

Shellfish Committees

- **A Shellfish Committee is not a state requirement**
- Structure and function of the shellfish committee is entirely up to the town
 - How many members
 - Length of term
 - Make-up of committee
 - Residency of committee members
 - How often meetings are held
- Structure, function, and responsibilities of the Shellfish Committee are usually defined in the Shellfish Ordinance
 - Example: [Yarmouth/North Yarmouth](#) (page 12)
- Marine Resource Scientists from the Nearshore Program can come to committee meetings to provide guidance or answer questions

§6671 2. **Municipal program and ordinance** ‘... A municipality *may* establish a municipal shellfish management committee to administer a municipal program.’

Residency Requirements

§6671 3-A. Shellfish Conservation Licensing

C. ...The period of issuance for resident and nonresident licenses **must be the same**. Subsequent to the period of issuance, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents.

D. Except as otherwise provided in this section, a shellfish conservation ordinance **may not discriminate** between resident license holders and nonresident license holders.

E. A licensing authority shall provide and reserve a minimum number of commercial licenses for nonresidents. **The number of nonresident commercial licenses may not be less than 10% of the number of commercial licenses provided for residents.**

G-1. ...The number of nonresident recreational licenses **may not be less than 10%** of the number of recreational licenses issued to residents.

Licensing

- Towns must submit their license allocation request to DMR **at least 30 days prior to the period of issuance**
 - DMR has final approval of license numbers and may require resource-based justification for changes to license numbers.
 - Allocation: Number of licenses allocated to residents and nonresidents for each type of license
 - Either UNLIMITED for residents/10% for non-residents or LIMITED for both residents and non-residents
 - Example: [Brunswick](#): limited commercial licenses, unlimited recreational licenses
- Submit allocation request through an on-line form on our 'Forms' page

The screenshot shows the official website of the Department of Marine Resources (DMR) of the State of Maine. The header features the DMR logo, the department name, and navigation links for News, Contact, Sitemap, and Website Feedback. A search bar is also present. The main navigation menu includes links for About Us, Fisheries (which is highlighted), Aquaculture, Aquarium, Science, Programs, Marine Patrol, and Rules & Laws. Below the navigation menu, a breadcrumb trail reads: Home → Fisheries → Shellfish → Nearshore Marine Resources Forms. The main content area is titled 'Nearshore Marine Resources Forms' and 'Municipal Shellfish License Allocations'. A sidebar on the left lists categories: Fisheries, Commercial Fishing, Recreational, and Shellfish. A 'MORE INFO & HELP' box on the right contains contact information for the Marine Resource Scientist.

State of Maine
Department of Marine Resources

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Home → Fisheries → Shellfish → Nearshore Marine Resources Forms

Nearshore Marine Resources Forms

Municipal Shellfish License Allocations

- [Municipal Shellfish License Allocation Request](#)

MORE INFO & HELP

Please contact your [Marine Resource Scientist](#) if you need help with any of these forms.

Licensing

Period of Issuance

- DMR Chapter 7.10: “Period of issuance” means **the first 90 days** during which a municipality **reserves or sells shellfish harvest licenses** each year, unless a municipality chooses to issue unlimited licenses in which case it shall mean the period starting when the municipality begins to reserve or sell shellfish licenses for an effective license year until the last day of the effective license year.

The date licenses are **reserved or sold** is not always the same as the date that licenses are **effective**!

- DMR Chapter 7.10: “Effective license year” means any twelve month period designated by the municipality in which a shellfish harvesting license is effective.

Licensing

Period of Issuance

§6671 3-A. Shellfish Conservation Licensing

All towns: Advertise at least 10 days prior to license sales

C. ...**Notice of the number and the procedure for application must be published** in a trade or industry publication or in a newspaper or combination of newspapers with general circulation that the municipal officers consider effective in reaching individuals affected **not less than 10 days prior to the period of issuance** and must be posted in the municipal offices until the period of issuance concludes. The period of issuance for resident and nonresident licenses must be the same.

Subsequent to the period of issuance, the municipality shall make any resident or nonresident licenses not granted during the period available to residents or nonresidents.

Towns with limited licenses: Licenses unsold **90 days after the first reservation or sale of licenses** must be sold to anyone, regardless of residency.

Licensing

10% Rule

DMR Chapter 7.40 (3) Table 1

Number of Resident Licenses	Number of Non-Resident Licenses
1-5	0
6-10	1
11-20	2
21-30	3 (etc)

- The required 10% rule for issuing non-resident licenses is a minimum requirement and the town may choose to issue more than 10% if desired.
- The required 10% rule is for each separate category of license.
- This table applies to both commercial and recreational licenses.

Licensing

All license types must be defined in the Ordinance

- All license types must be defined in the Municipal Shellfish Ordinance and must include definitions for both resident and non-resident licenses of each category.
- The license definitions explain who qualifies for what type of license
- Examples (None of these specific definitions are required by the state):
 - Sets an age requirement:
 - Senior license for those over 65
 - Junior license for those 12-18
 - Sets a stipulation:
 - The municipal recreational shellfish license is not available to anyone who holds a state commercial shellfish license
 - Sets a harvest limit:
 - The recreational license allows the holder to harvest one peck of combined shellfish per day

Licensing

License Price

§6671 3-A. Shellfish Conservation Licensing

B. A shellfish conservation ordinance may fix license fees as follows.

(1) If the ordinance sets a fee of \$200 or less for a resident license, the fee for a nonresident license may not exceed twice the resident fee.

(2) If the ordinance sets a fee of more than \$200 for a resident license, the fee for a nonresident license may not exceed 1 1/2 times the resident fee.

DMR Chapter 7.40 (1): ...Licenses unsold during the period of issuance shall be issued for the **original allocated fee in each category** regardless of residency...

Licensing

No discrimination between residents and non-residents

§6671 3-A. Shellfish Conservation Licensing

C. The period of issuance for resident and nonresident licenses must be the same.

DMR Chapter 7.40 (1): Resident and non-resident licenses in each license category must be made available on the same date.

How do you do that for Unlimited Resident/10% Non-Resident??

DMR Chapter 7.40 (2): Towns with unlimited commercial or recreational license allocations shall make available and issue if applicable on the first day of license sales, to qualifying non-residents, **no less than 10% of the total number of resident licenses issued in the previous year**. Thereafter, non-resident licenses will be issued according to the 10% rule...

EXAMPLE:

In 2023, sold 33 Commercial Resident Licenses

In 2024, on first day of license sales, make available 4 Commercial Non-Resident Licenses

Licensing

No discrimination between residents and non-residents

- The **PROCESS** of issuing licenses must be the same for residents and non-residents, within a particular license category.
 - If resident licenses are issued first come, first serve then non-resident licenses must be issued first come, first serve, NOT by lottery.
 - If resident licenses are issued by lottery, then non-resident licenses may also be issued by lottery.
 - ONLY EXCEPTION: If resident licenses are **unlimited** and are issued first come, first serve, non-resident licenses may be issued by lottery (because there is no way to issue unlimited licenses by lottery).

Licensing

We have reviewed the proposed shellfish license allocations for 2023, and hereby approve them as follows:

The required 10% rule for issuing non-resident licenses is a minimum requirement and the town may choose to issue more than 10% if desired.

Each license must be defined in ordinance

Each license category meets 10% rule

Difference between resident and non-resident prices meet state law

<i>Class</i>	<i>Subclass</i>	<i>Amount</i>	<i>Cost</i>
Commercial	Resident	57	\$500.00
Commercial	Nonresident	6	\$750.00
Commercial	Junior Resident	15	\$100.00
Commercial	Junior Nonresident	2	\$150.00
Commercial	Bushel Resident	2	\$225.00
Recreational	Resident	No Limit Set	\$50.00
Recreational	Nonresident	10%	\$75.00
Recreational	Senior Resident	No Limit Set	\$0.00
Recreational	Senior Nonresident	10%	\$0.00
Recreational	Resident One Day	No Limit Set	\$25.00
Recreational	Nonresident One Day	No Limit Set	\$25.00

Not required to sell 'Bushel Nonresident' based off 'Bushel Resident' number

Licenses may be issued starting on April 5, 2023, following a minimum of 10 days advertising pursuant to Title 12. §6671 3-A. C.

Period of Issuance starts April 5 and ends July 4. First business day after July 4, unsold licenses in the limited categories must be made available regardless of residency. **Note: licenses become effective May 1.**

License numbers, price, procedure must be advertised for 10 days prior to sale

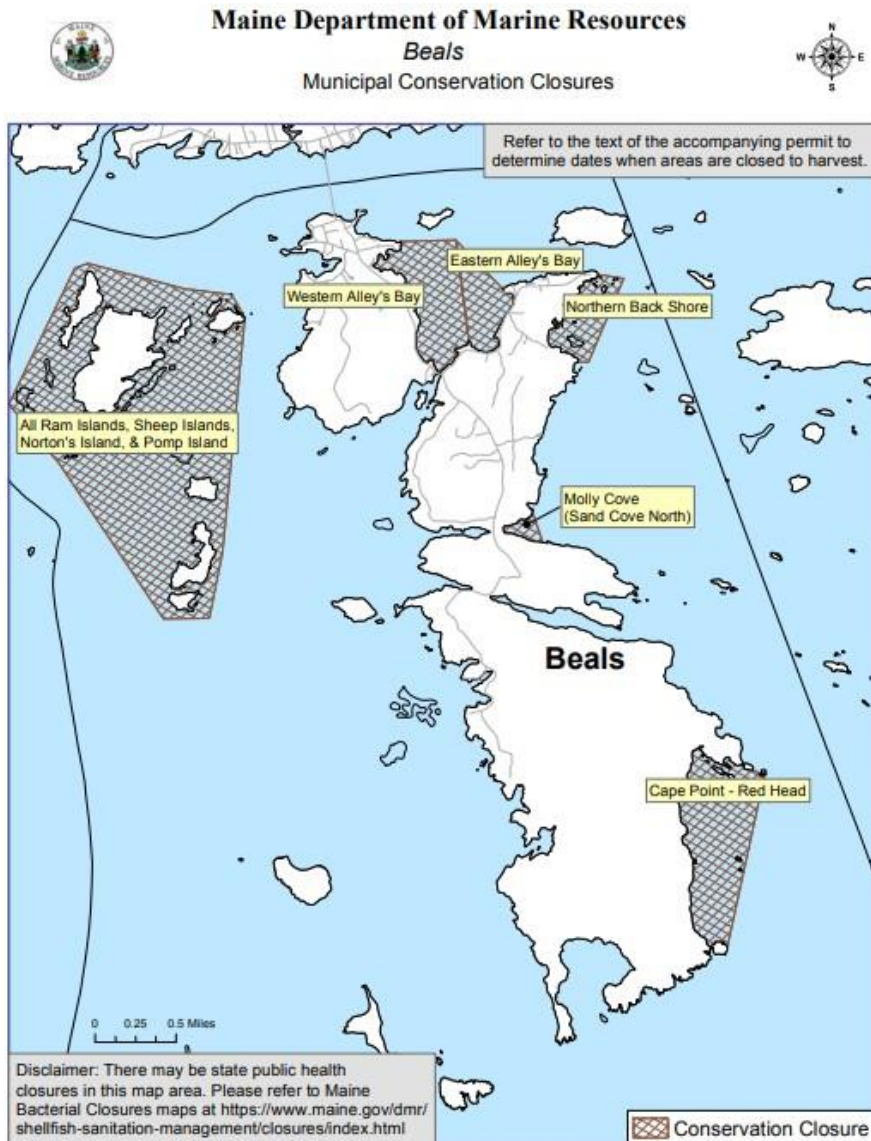
Conservation Activities

- ▶ The state does not require conservation time
- ▶ **If a town requires conservation time to get a license:**
 - Ch. 7.40 (4): 'Municipal shellfish license applicants who complete conservation time (or conservation credit activities) in order to be eligible for a municipal shellfish license according to the Municipal Shellfish Conservation Ordinance, **shall remain eligible until they have been issued or offered a shellfish license** by the municipality so long as the applicant applies annually for the license.
 - In a town with limited licenses, after the 90-day period of issuance, unsold licenses must be made available regardless of residency and regardless of completing conservation time.
 - In a town with unlimited licenses, the town is expected to offer opportunities for conservation time throughout the year.

WHAT ACTIVITIES REQUIRE PERMITS?



Conservation Activity Permits



7.50 Conservation Activities

Conservation Closure/Opening:

- Application:
20 days prior to activity
- Public Notification:
5 days prior

Conservation Activity Permits

Transplant:

- Application: 20 days prior
- Permit required for wild or hatchery seed (possession of undersized shellfish)
- From prohibited areas, only seed may be transplanted (See DMR Chapter 2.95 for seed sizes)
- Permit to transfer from restricted or conditionally restricted open status area only given under certain enforcement conditions
- Permit required to remove shellfish from Municipal LPA site.

*Photo Credit:
Hannah Annis*



Conservation Activity Permits

Transplant Survey Log: Submit within 20 days of activity

Required for transplants from closed areas.

Encouraged for all transplants, since you will need to report this activity on your Annual Review

Shellfish Transplant Activity Log

INSTRUCTIONS: The following information must be recorded during any transplanting activity from Prohibited/Restricted areas and should be recorded for all other transplant activities. This information will also be required for the Annual Management Review: Summary of Transplant Activities. Please send the completed form to: DMR P.O. Box 8 West Boothbay Harbor, ME 04575 Attn: Shellfish Program Coordinator OR email to DMRPublicHealthDiv@Maine.gov within 20 days of the transplant activity.

Town/City:

Date of Activity: _____

Supervisor:

Seed Amount:

Average Size:

Size Range:

Source (if Hatchery):

Source Flat:

Receiving Flat:

Was predator netting used? ☐ yes ☐ no

Was the flat prepared in any way? ☐ yes ☐ no

The area will be closed until:

Number of Crew:

The remainder of the page may be used to record the names of those in attendance.

[illegible]

Conservation Activity Permits

Surveys in Closed Areas: Apply for a permit 20 days prior to activity



Conservation Activity Permits

Any activity which places objects in the intertidal zone requires an Army Corps of Engineers Permit.



Photo Credits: Hannah Annis

Examples: Brushing, netting, recruitment boxes

Annual Review: Due April 1

- ▶ Reminder email sent in January
- ▶ Instructions & Forms available on [Nearshore Website](#)
- ▶ This is REQUIRED!
- ▶ Often completed by Town Clerk, but requires input from the Municipal Shellfish Conservation Warden and the Shellfish Committee
- ▶ Changes to forms coming for 2024 Annual Review

Annual Review: Due April 1

- ▶ Reminder email sent in January
 - ▶ Instructions & Forms available on [Nearshore Website](#)
 - ▶ This is REQUIRED!
-
- ▶ Marine Resource Scientists will review and reach out with questions by June 1
 - ▶ Starting in 2024, we are compiling data from Annual Reviews to share at the 2024 Regional Shellfish Meetings

Municipal Shellfish Mini-Grants

- ▶ Program started in 2023, up to \$7,000 per project
- ▶ Expected 2025 Timeline:
 - October 2024: Request For Proposals sent out
 - December 2024: Proposals due
 - January 2025: Review Panel meets
 - February 2025: Awards announced
 - March 1, 2025: Contracts complete, projects start
- ▶ Projects must:
 - Evaluate the success of their work
 - Complete two outreach activities (i.e. presentation and fact sheet)
 - Submit final report