

On Tuesday, May 7, 2024, the Bar Harbor Town Council adopted the following amendment to the Municipal Code. The amendment takes effect June 6, 2024. A copy has been filed with the Town Clerk.

Shellfish Conservation Ordinance Amendment
Town of Bar Harbor
2024-02

An Amendment to the Shellfish Conservation Ordinance to add American oysters, quahogs, razor clams and hen clams to the shellfish species under co-management.

The Town of Bar Harbor hereby ordains that Chapter 170, Shellfish Conservation, of the Town Code is amended as follows:

[Please Note: Old Language is ~~stricken~~. New language is underlined.]

Chapter 170
Shellfish Conservation

§ 170-2 Purpose.

The purpose of this chapter is to establish a shellfish conservation program for the Town of Bar Harbor that will ensure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means including:

- 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~~ shellfish taken; and
- E. Limiting the amount of ~~clams~~ shellfish taken daily by a harvester.

§ 170-3 Marine Resources Committee.

- A. The shellfish conservation program for the Town of Bar Harbor will be administered by the Marine Resources Committee, consisting of seven members to be appointed by the Town Council for staggered terms of three years.
- B. Committee's responsibilities. The Committee's responsibilities include:
 - (1) Establishing annually, in conjunction with the Maine Department of Marine Resources, the number of shellfish digging licenses to be issued.
 - (2) Surveying each ~~clam~~ shellfish producing area at least once each three years to establish size distribution and density and annually to estimate the status of the Town's shellfish resources.

§ 170-4 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

SHELLFISH and CLAMS

Soft-shell clams, *Mya arenaria*; quahogs, *Mercenaria mercenaria*; razor clams, *Ensis directus*; and Eastern American oysters, *Crassostrea virginica*; and hen clams, *Spisula solidissima*.

§ 170-5 Licensing.

A. Generally.

- (1) License required. It is unlawful for any person to dig or take ~~soft-shell clams~~ shellfish from this municipality without having a current license issued by this municipality as provided by this chapter.
- (2) License fees waived. ~~Resident~~ Recreational shellfish license fees will be waived for ~~residents~~ individuals over 65 and under 16 years of age.
- (3) State commercial license. A commercial shellfish harvester must have a valid commercial shellfish license issued by the Maine Department of Marine Resources. This license does not need to be purchased prior to purchase of the Town license.

B. Designation, scope and qualifications.

- (1) Resident commercial shellfish license. The license is available to residents of the Town of Bar Harbor. It entitles the holder to dig, take or possess any amount of ~~soft-shell clams~~ shellfish from the shores and flats of this municipality, ~~except with the exception of a one bushel daily limit for hen clams, or~~ where lower limits have been established for certain areas.
- (2) Nonresident commercial shellfish license. The license is available to nonresidents of this municipality. It entitles the holder to dig, take or possess any amount of ~~soft-shell clams~~ shellfish from the shores and flats of this municipality, ~~except with the exception of a one bushel daily limit for hen clams, or~~ where lower limits have been established for certain areas.
- (3) Resident junior commercial license. This license is available to any resident, who has attained his or her 13th birthday, but has not yet attained their 18th birthday as of the first day of the current licensing year. This license entitles the holder to harvest and take any amount of ~~soft-shell clams~~ shellfish from the shores and flats of this municipality, ~~except with the exception of a one bushel daily limit for hen clams, or~~ where lower limits have been established for certain areas.
- (4) Nonresident junior commercial license. This license is available to any nonresident, who has attained his or her 13th birthday but has not yet attained their 18th birthday as of the first day of the current licensing year. This license entitles the holder to harvest and take any amount of ~~soft-shell clams~~ shellfish from the shores and flats of this municipality, ~~except with the exception of a one bushel daily limit for hen clams, or~~ where lower limits have been established for certain areas.
- (5) Resident recreational shellfish license. License required for harvest of soft-shell clams only. The license is available to residents and real estate taxpayers of this municipality and reciprocating municipalities. It entitles the holder to dig, take or possess no more than one peck of ~~soft-shell clams~~ combined of soft-shell clams, quahogs, Eastern oysters, and razor clams, and a separate half-bushel limit for hen clams in any one day for personal use. This license is not available, nor valid, to holders of a Maine commercial shellfish license.
- (6) Nonresident recreational shellfish license. The license is available to any person not a resident of this municipality. It entitles the holder to dig, take or possess not more than one peck of ~~soft-shell clams~~ combined of soft-shell clams, quahogs, Eastern oysters, and razor clams, and a separate half-bushel limit for hen clams in any one day for personal use. This license is not available, nor valid, to holders of a

Maine commercial shellfish license.

- (7) All shellfish licenses. It shall be unlawful for an individual to possess any Bar Harbor shellfish license if their state shellfish harvesters license is under suspension or revocation for any reason for the period of state suspension at a minimum.
- (8) License must be signed and consent to inspection. In order for a Town shellfish license to be valid, it must be signed. Any person who signs a Town shellfish license has a duty to submit to inspection and search for violations related to the licensed activity by the Town Shellfish Warden or other Law Enforcement Officer under the following conditions:
 - (a) Watercraft or vehicles and the equipment located on watercraft or vehicles which are used primarily during shellfish harvesting activity may be searched or inspected at any time if the Shellfish Warden or other Law Enforcement Officer has a reasonable suspicion of a violation of the Town Shellfish Conservation Ordinance by the licensed individual.
- (9) Conservation time requirements for commercial shellfish license. No commercial license shall be issued until the applicant has completed the minimum number of mandatory conservation hours. Qualifying conservation time includes attending Marine Resources Committee meetings, ~~clam~~ shellfish flat population and recruitment surveys, reseeding and any other approved activity. Any member of the Bar Harbor Marine Resources Committee may verify hours for approved activities. The minimum required conservation hours will be established by the Marine Resources Committee at least six months prior to current license expiration date. Conservation time must be accumulated in the previous licensing year; however, if an individual obtains the appropriate conservation time, but is unable to obtain a commercial license, their conservation time will rollover ~~to the next year or until they are offered a license~~ to the next year or until they are offered a license. Conservation time requirements are waived for anyone 16 and under at the end of the previous licensing year.

- E. Limitation of diggers. Because the shellfish resources are limited and a commercial or recreational digger can be expected to harvest a certain volume of ~~clams~~ shellfish per year, the number of diggers 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 the control:

- (5) Unlimited license sales. When the Marine Resources Committee determines limiting shellfish licenses is not an appropriate shellfish management option for one or more license categories for the following year, it can change to unlimited license sales within a category. The Town Clerk shall issue licenses as allocated. On the first day of license sales, the total number of nonresident ~~commercial~~ licenses shall be issued in accordance with DMR Regulations Chapter 7.4, Section ~~1~~ 2. Thereafter, nonresident licenses will be issued in accordance with the 10% rule as described in 12 M.R.S.A. § 6671, Subdivision 3E, and DMR Regulations Chapter 7.4, Section ~~2~~ 3, Table 1.
- (6) ~~Dates~~ Period of issuance. The Town Clerk shall issue licenses as allocated from the first day of July, with the exception noted in B(10) above. Categories with limited license sales shall be offered until the ~~28th~~ 14th day of September, after which licenses in these categories shall be issued to residents and nonresidents on a first-come-first-served basis.

§ 170-7 **Limitation on ~~elams~~ shellfish to be taken.**

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

LOT

The total number of ~~soft-shell elams~~ shellfish in any bulk pile. Where ~~soft-shell elams~~ shellfish are in a box, barrel or other container, the contents of each box, barrel or other container constitutes a separate lot.

~~NIGHT DIGGING~~

~~The taking of shellfish during the period from 30 minutes after sunset to 30 minutes before sunrise.~~

POSSESS

Dig, take, harvest, ship, transport, hold, buy and sell, retail or wholesale, ~~soft-shell clam shell~~ shellfish stock.

B. Tolerance. A person shall not harvest or possess softshell clams which are less than two (2) inches in the longest diameter to the amount of not more than ten (10) percent of any lot; quahogs which are less than one (1) inch in at the hinge to the amount of not more than five (5) percent of any lot; razor clams which are less than four (4) inches; American oysters which are less than two and a half (2.5) inches in the longest diameter to the amount of not more than ten (10) percent of any lot. ~~Any person may possess soft-shell clams that are less than two inches if they comprise less than 10% of any lot.~~ The tolerance shall be determined by numerical count of not less than one peck nor 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.

[End of ordinance]