

On July 21, 2020, the Bar Harbor Town Council adopted the following amendment to the Municipal Code. The amendment takes effect August 20, 2020. A copy has been filed with the Town Clerk.

## **Shellfish Conservation Ordinance Amendment**

Town of Bar Harbor

#2020-10

### **An Amendment to define a new junior commercial license class and a new unlimited classification for licenses.**

*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.]

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## **CHAPTER 170 – SHELLFISH CONSERVATION**

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### **§ 170-4 Definitions.**

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

#### **JUNIOR**

A person who is under 18 on the first day of the licensing period.

#### **NONRESIDENT**

Anyone not qualified as a resident under this chapter.

#### **RESIDENT**

A person who has been domiciled in this municipality for at least three months immediately prior to the time his/her claim of such residence is made.

#### **SHELLFISH and CLAMS**

Soft-shell clams, *Mya arenaria*.

### **§ 170-5 Licensing.**

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#### **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 shellfish from the shores and flats of this municipality, except 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 shellfish from the shores and flats of this municipality, except 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 13<sup>th</sup> birthday, but has not yet attained their 18<sup>th</sup> birthday as of the first day of the current licensing year. This license entitles the holder to harvest and take any amount of shellfish from the shores and flats of this municipality, except 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 13<sup>th</sup> birthday but has not yet attained their 18<sup>th</sup> birthday as of the first day of the current licensing year. This license entitles the holder to harvest and take any amount of shellfish from the shores and flats of this municipality, except where lower limits have been established for certain areas.
- (35) Resident recreational shellfish license. 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 shellfish in any one day for personal use. This license is not available, nor valid, to holders of a Maine commercial shellfish license.
- (46) 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 shellfish in any one day for personal use. This license is not available, nor valid, to holders of a Maine commercial shellfish license.
- (57) 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.
- (68) 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.
- (79) Conservation time requirements for commercial shellfish license. No ~~resident or nonresident~~ 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 flat population and recruitment surveys, reseeded 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 ~~1716~~ and under at the end of the previous licensing year.

(810) Commercial license eligibility. Individuals possessing Bar Harbor commercial shellfish harvesting licenses for four of the previous five years and who have accumulated the required conservation time are eligible to obtain their licenses two weeks in advance of the next license year. The Marine Resources Committee shall determine the number of advance licenses available for the next year no later than six months in advance. If the number of eligible individuals exceeds the number of advance licenses available, those licenses shall be assigned through a lottery. Any licenses not issued before the first working day of the new license year will be available to any eligible individual that has met the conservation time requirement.

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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 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:

- (1) Number of licenses established. Prior to May 1 the Town Marine Resources Committee, with the approval of the Maine Commissioner of Marine Resources, will establish the number of commercial and recreational licenses to be permitted following the requirements of 12 M.R.S.A. § 6671(3-A).
- (2) Notice to Town Clerk. Prior to June 1 the Town Marine Resources Committee will notify the Town Clerk in writing of the number of licenses to be issued.
- (3) Public notice. Not less than 10 days prior to the period of issuance 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, effective in reaching persons affected. Notice shall also be posted in the municipal offices until the period of issuance concludes.
- (4) Limited License Sales. The number of licenses issued may be limited and will be issued according to the Municipal License Allocation Request as approved by DMR. The Town Clerk shall issue licenses to residents and nonresidents as allocated for the first 90 days of the period of issuance after which any unsold licenses shall be made available to residents and nonresidents alike on a first-come, first-served basis or by lottery, at the approved fee per available license class.
- (5) Unlimited License Sales. When the Shellfish Conservation 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 non-resident commercial licenses shall be issued in accordance with DMR Regulations Chapter 7.4 section 1. Thereafter, non-resident licenses will be issued in accordance with the 10% rule as described in 12 M.R.S.A. §6671(3-E) and DMR Regulations Chapter 7.4, Section 2, Table 1.
- (46) Dates of issuance. The Town Clerk shall issue licenses ~~to residents and nonresidents~~ as allocated from the first day of July. Categories with limited license sales shall be offered until the 28th day of September, after which licenses in these categories shall be issued to residents and nonresidents on a first come, first served basis.

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[End of Ordinance]