

**TOWN OF ADDISON
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**SHELLFISH CONSERVATION
ORDINANCE**

**TOWN OF ADDISON, ME.
MARCH 11, 2003**

ATTEST TRUE COPY:

ALICE TUCKER, CLERK

REVISED: 04/03/2003
REVISED: 03/11/2008
REVISED: 03/09/2010
REVISED: 03/13/2012
REVISED: 03/12/2013
REVISED: 03/11/2014
REVISED: 03/08/2016

SHELLFISH CONSERVATION ORDINANCE
Town of Addison

1. **Authority:** This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.
2. **Purpose:** To establish a shellfish conservation program for the Town of Addison that will insure the protection and optimum utilization of shellfish resources within its limits. These goals will be achieved by means that may include:
 - A. Licensing
 - B. Restricting the time and area where digging is permitted
 - C. Limiting the minimum size of clams taken
 - D. Limiting the amount of clams taken daily by a harvester
3. **Shellfish Conservation Committee:** The shellfish Conservation Program for the Town of Addison will be administered by the Shellfish Conservation Committee consisting of 7 members to be appointed by the Selectmen for a term of one year.

The Committee's responsibilities include:

- A. Submitting to the Board of Selectmen proposals for the expenditure of funds for the purpose of shellfish conservation;
- B. Keeping this ordinance under review and making recommendations for its amendments;
- C. 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;
- D. Recommending conservation closures and openings to the Board of Selectmen or Council in conjunction with the Area Biologists of the Department of Marine Resources;
- E. Submitting an annual report to the Municipality and the Department of Marine Resources covering the above topics and all our committee activities.
- F. Conduction of a conservation program for commercial licenses as follows:
 1. The Shellfish Conservation Committee shall develop a list of conservation activities by which commercial license applicants can comply with the conservation time requirement and post such a list at Town Hall. The conservation time requirement is subject to limits set by the Shellfish Conservation Committee after a public hearing held with a ten day notice, and approved by the Town of Addison.
 2. At least one member of the Committee or shellfish warden shall supervise and validate each conservation activity.
 3. The Committee shall maintain records of compliance with this program including a log of conservation dates, activities, and participants indicating conservation time completed as of that date, and a complete list of participants that must be filed with the Town Clerk.

4. **Definitions:**

A. **Resident:** The term “resident” refers to a person who has been domiciled in this municipality for at least ~~three~~ *Six* months prior to the time of his claim of such residence is made.

Amended 3/08/2016 (Article #34)

B. **Nonresident:** The word “nonresident” means anyone not qualified as a resident under this ordinance.

C. **Shellfish, clams and Inter-tidal shellfish resources:** When used in the context of this ordinance the words “shellfish”, “clams”, and “inter-tidal shellfish resources” mean soft-shell clams, Mya arenaria.

D. **Municipality:** Refers to Town of Addison, Maine

AMENDED 3/08/2016 to add the following: (Article #35)

E. **Recreational:** Refers to “Personal Use Only”

5. **Licensing:** Municipal Shellfish Digging License is required. It is unlawful for any person to dig 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 Digger must also have a valid State of Maine Commercial Shellfish License issued by the Department of Marine Resources. *Any Digger holding a State Commercial license cannot purchase a resident or non-resident recreational shellfish license.*

A. **Designation, Scope and Qualifications:**

1) **Resident Commercial Shellfish License:** The license is available to residents of the Town of Addison 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:** The 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.

AMENDED 3/08/2016 to remove text (Article #30)

~~(a) An applicant for a Resident or Non-resident Commercial License must have completed the conservation time requirement (2-4 hours) as determined by the Shellfish Conservation Committee (see Section 3,F;1-3)~~

~~(b) An applicant for a Commercial License up to age 65 years are required to spend 1/2 of their conservation time (2 hours) picking brush and 1/2 of their conservation time (2 hours) placing the brush on the clam flats.~~

AMENDED 3/08/2016 to read as follows: (Article #31)

Conservation activities will be determined by the Addison Shellfish Committee at a regular meeting.

3) **Resident Recreational Shellfish License:** The license is available to any residents and real estate taxpayers of this municipality and entitles the holder to dig, take, or possess no more than one peck of shellfish in any one day for the *personal* use of himself or his family.

AMENDED 3/08/2016 to read "personal use" (Article #32)

4) **Nonresident Recreational Shellfish License:** The license is available to any person not a resident of this municipality and entitles the holder to dig, take, or possess no more than one peck of shellfish in any one day for the *personal* use of himself and his family.

AMENDED 3/08/2016 to read "personal use" (Article #32)

5) **License must be signed:** The licensee must sign the license to make it valid.

B. **Application Procedure:** Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by this 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) **Mis-representation:** Any person who gives false information on a license application will cause said license to become invalid and void.

AMENDED 3/08/2016 to insert the following: (Article #36)

If a shellfish license applicant's stated residency is questionable, they must provide documentation as requested by the Town Clerk/Deputy Clerk verifying their residency with the current address.

C. **Fees:** The fees for the licenses must accompany in full the application for the respective license. 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.

Resident Commercial

Non-resident Commercial

Resident Recreational

Non-resident Recreational

D. **Open 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:

1) Notice of the dates, places, times and the procedures for the license sales 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 initial sale date and shall be posted in the municipal offices. A copy of the notice shall be provided to the Commissioner of Marine Resources.

- 2) ~~For each commercial license category, the Town Clerk shall issue one license to non-residents when six licenses are issued to residents and one more to non-residents when four more are issued to residents; thereafter, one non-resident license will be issued for every ten additional resident licenses issued. For each recreational license category, the Town Clerk shall issue one license to a resident and one to a non-resident; thereafter, one non-resident license will be issued for every ten additional resident licenses issued.~~

AMENDED 03/08/2016 to read as follows: (Article #25)

On the first day of license sales, 10% of the number of total resident licenses issued in the previous year shall be made available to qualified non-residents. Thereafter, non-resident licenses will be issued in accordance with the 10% rule as described in M.R.S.A. 6671 (3E) Chapter 7 of the DMR Regulations.

- 3) ~~*** Resident and non-resident commercial license applicants may pay twice the amount (\$100.00) for a shellfish license as an option instead of mandatory conservation.***~~

AMENDED 3/13/2012 TO READ AS FOLLOWS: (Article #29).

AMENDED 3/12/2013 TO READ AS FOLLOWS: (Article #24A).

AMENDED 3/11/2014 TO READ AS FOLLOWS: (Article #27).

Resident and Non-Resident Commercial License applicants may pay twice the amount for a shellfish license as an option instead of mandatory conservation.

AMENDED 3/08/2016 to remove specific license fees. (Article #26)

Shellfish Committee to set license fees with approval from the Selectmen.

Resident and Non-Resident Commercial Licenses

Without Conservation Work

Resident: \$200.00

Non-Resident: \$400.00

With Conservation Work

Resident: \$100.00

Non-Resident: \$200.00

Resident Student (18 and under): \$25.00

Non-Resident Student (18 and under): \$50.00

Seniors (65 and older): Complimentary

AMENDED 3/12/2013 TO READ AS FOLLOWS: (Article #24B):

Resident (or property owner in Addison) and Non-Resident Recreational Licenses

Resident: \$25.00

Non-Resident: \$50.00

Junior/Student Resident: \$25.00

Non-Resident Junior/Student: \$50.00

Senior Resident/Non-Resident (65 years and older): Complimentary

4) After receiving approval of licenses from the Commissioner of Marine Resources and prior to June 1, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the allocation of shellfish licenses to be issued.

5) ~~The Town Clerk of the Town of Addison shall make available commercial shellfish licenses to the residents of the Town of Addison for June 20 and the Town Clerk of the Town of Addison shall make available commercial shellfish licenses to non-residents from July 1. Said non-residents commercial and recreational shellfish licenses shall number no more than 10% of said resident commercial shellfish licenses.~~

AMENDED 3/08/2016 to read: (Article #28)

The Town Clerk of the Town of Addison shall make available resident and non-resident shellfish licenses on June 20th of each year.

6) Non-resident commercial license applicants shall apply for a shellfish license on a lottery basis. ~~Those applicants who chose to do the mandatory conservation will be prioritized over those who pay twice the amount for a shellfish license as an option to the mandatory conservation.~~

AMENDED 3/08/2016 to replace second sentence as follows: (Article #29)

If an individual obtains the appropriate conservation time, but is unable to obtain a commercial shellfish license, their conservation time will rollover to the next year or until they are offered a commercial license.

E. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on the 30th day of June next following date of issue.

F. Reciprocal Harvesting Privileges: Licenses 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 fees will be waived for residents 65 years or older.

H. Commercial shellfish license fees will be waived for residents 65 years or older.

1. It is required that 65 years of age and over, lifetime free shellfish licenses be renewed yearly.

Amended 03/09/2010, Article #31 Annual Town Meeting.

I. Commercial shellfish licenses will be issued to resident students age 18 or younger at a cost of \$25.00 with conservation credit, or \$50.00 without conservation credit.

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. Upon recommendation of the shellfish Conservation Committee and concurrence of the Department of Marine Resources area biologist that the status of shellfish resource and other factors bearing on sound management indicate that an area should be opened or closed, the Municipal Officers may call a public hearing on ten-days notice published in a newspaper having general circulation in the Town, stating the time, place, and subject matter of the hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Municipal Officers made after the hearing shall be based on findings of fact.

A. ~~All flats that are closed by the State for conservation purposes will also be closed by the Town of Addison until further notice.~~

AMENDED 3/08/2016 to read as follows: (Article #33)

Any area that is closed by the State of Maine to shellfish harvesting due to bacterial pollution, whether classified as prohibited or restricted, is automatically closed by the Town of Addison for Conservation.

B. ~~Any area that is closed by the State of Maine to shellfish harvesting will also be automatically closed by the Town to shellfish harvesting. Amended 03/09/2010, Article #29 Annual Town Meeting.~~

AMENDED 3/08/2016 to remove and to read as follows: (Article #33 and #37)

The Town of Addison will close the flats to harvesting of soft-shell clams at night from one half hour after sunset until one half hour before sunrise.

7. **Minimum Legal Size of Soft-shell Clams:** It is unlawful for any person to possess soft shell clams within the Town of Addison, Washington 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 that 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 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.

C. **Penalty:** Whoever violates any provisions of this section shall be punished as provided by 12 M.R.S.A. Section 6681.

8. **Penalty:** A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10).
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. **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 affect the validity of the remaining portions of this ordinance.
11. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any other town ordinance that is inconsistent with this ordinance is hereby repealed.

Given under our hands this _____ day of _____, 2016

Timothy Thompson, Selectman

Thomas W. Batson, Selectman

David M. Ingersoll, Selectman