

TOWN OF ARROWSIC
Shellfish Conservation Ordinance

Adopted June 20, 2001
Revised June 19, 2002
Revised June 11, 2008
Revised June 16, 2016
Revised June 13, 2019
Revised June 13, 2024

I. Authority: This ordinance is enacted in accordance with 12 M.R.S.A. Section 6671.

II. Purpose: To establish a shellfish conservation program for the Town of Arrowsic which will ensure 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 shellfish taken.
- E. Limiting the amount of shellfish taken daily by a harvester.

III. Shellfish Conservation Committee: The Shellfish Conservation Program for the Town of Arrowsic will be administered by the Shellfish Conservation Committee consisting of five members and two alternates to be appointed by selectmen for staggered terms of three years. The Committee's responsibilities include:

- A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish digging licenses to be issued.
- B. Surveying each shellfish producing area at least once each three years to establish size distribution and density and annually estimating the status of the town's shellfish resources.
- 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 town's 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 Selectman in conjunction with the Area Biologists of the Department of Marine Resources.
- G. Submitting an annual report to the Town and the Department of Marine Resources covering the above topics and all other committee activities.
- H. Developing such detailed policies and procedures as are necessary to effectively carry out the intent of this ordinance.
- I. Other activities consistent with this ordinance.

IV. Definitions:

A. Resident: The term "resident" refers to a person who has been domiciled in this town for at least six months immediately prior to the time his or her claim of such residence is made, and who shall remain a resident during the period of time the license is valid.

B. Nonresident: The term "nonresident" means anyone not qualified as a resident under this ordinance.

C. Student: The term "student" refers to a person who is between the ages of 12 and 18 inclusive and is a full time student in a primary or secondary education program. Proof of age and school attendance may be required.

D. Seniority: As used in this ordinance the term "seniority" refers to the number of years in the five year period immediately preceding the year of license issue, but not earlier than the year 2003, during which a harvester:

(i) held a Commercial Shellfish License in the Town of Arrowsic,

(ii) had no convictions for a violation of the Town Shellfish Conservation Ordinance,

(iii) either fully participated in a scheduled shellfish conservation project, or attended at least three meetings of the Shellfish Conservation Committee.

E. Shellfish and Intertidal Shellfish Resources: When used in the context of this ordinance the words "shellfish" and "intertidal shellfish resources" mean soft shell clams (*Mya arenaria*), hard clam/quahog (*Mercenaria mercenaria*), surf clam/hen (*Spisula solidissima*), razor clam (*Ensis directus*), American/Eastern oyster (*Crassostrea virginicus*) and the European oyster (*Ostrea edulis*).

F. Town: Refers to the Town of Arrowsic, Maine.

G. Limits: The town's shellfish are found in the intertidal zone, which is defined as "shores, flats or other land below the high-watermark and above subtidal lands," or as otherwise described in 12 M.R.S.A. Section 6671.

V. Licensing:

A. A Town Shellfish Digging License is required. It is unlawful for any person to dig or take shellfish from the shores and flats of this town without having a current license issued by this town as provided by this ordinance. A commercial digger must also have a valid State of Maine commercial shell fish license issued by the Department of Marine Resources, but need not purchase the State license before obtaining the Town license.

B. A recreational license will not be issued to an individual who has a State of Maine Commercial Shellfish License issued by the Department of Marine Resources.

C. Designation Scope and Qualifications:

1. Resident Commercial Shellfish License: The license is available to residents of the town and entitles the holder to dig and take any amount of shellfish from the shores and flats of this town and reciprocating municipalities, if any.

2. Nonresident Commercial Shellfish License: The license is available to nonresidents of this town and entitles the holder to dig and take any amount of shellfish from the shores and flats of this town.

3. Residential Recreational Shellfish License: The license is available to residents and real estate taxpayers of this town and entitles the holder to dig and take no more than one peck of combined shellfish or three bushels of surf clams in any one day for personal use.

4. Nonresident Recreational Shellfish License: The license is available to any person not a resident of this town and entitles the holder to dig and take not more than one peck of combined shellfish or three bushels of surf clams in any one day for personal use.

5. A Temporary 3 day Recreational License: This license entitles the holder to dig and take home not more than one peck of combined shellfish or three bushels of surf clams in any day for personal use. This license expires at midnight on the third day after it was issued.

6. License must be signed: The licensee must sign the license to make it valid.

D. Application Procedure: Any person may apply to the Town Clerk for the license required by this ordinance on forms provided by the town. Seniority is not required to apply for a license but will govern the order in which licenses are issued.

1. Contents of 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 town may require.

2. Misrepresentation: Any person who gives false information on a license application will cause said license to become invalid and void.

E. Fees: The fees for the licenses shall be approved by the Select Board and posted at Town Hall and must be paid in full before the license is issued. License fees are not refundable. The Town Clerk shall pay all fees received to the Town Treasurer except for \$1.00 of 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.

F. Limitation of Diggers: Shellfish resources vary in density and size distribution from year to year over the limited shellfish producing area of the town. It is essential that the town carefully husband its shellfish resources. Following the annual review of the town's shellfish resources, its size distribution, abundance and the warden's reports, as required by Section 3, the Shellfish Conservation Committee in consultation with the DMR area biologist and selectmen will determine whether limiting commercial or recreational shellfish licenses is an appropriate shellfish management option for the following year.

1. Prior to November 15, the committee shall report its findings and document recommendations for the allocation of commercial and recreational licenses to be made available for the following license year to the Selectmen and Commissioner of Marine Resources for concurrence.

2. After receiving approval of proposed license allocations from the Commissioner of Marine Resources and Selectmen and prior to December 15, the Shellfish Conservation Committee shall notify the Town Clerk in writing of the number and allocation of shellfish licenses to be issued.

3. 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, which the town consider effective in reaching persons affected, not less than 10 days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.

4. The Town Clerk shall issue licenses to residents and nonresidents as allocated (paragraph 1 above) starting the first business day of January. Within each allocation, the precedence of applications received on or before January 1 shall be determined as follows.

(i) First, previously licensed harvesters by seniority. A lottery shall be used to establish the precedence of harvesters having equal seniority.

(ii) Then, new applicants having no seniority. The precedence of such applications shall be established by a lottery whenever the total number (seniority and new) exceeds the applicable allocation.

After licenses have been issued as described above on the first business day of January, remaining licenses that have not been issued, or that were issued but not picked up shall be offered on a first-come-first-served basis. After April 1, remaining licenses will be available to all residents and nonresidents (whether they participated in the lottery or not) on a first-come-first-served basis.

5. Licenses not claimed by 14 days after notification may be offered to other applicants.

Licenses which are surrendered or revoked for any reason will not be reissued to anyone in the same license year.

G. License Expiration Date: Each license issued under authority of this ordinance expires at midnight on December 31 next following the date of issuance. A 3-day license expires at midnight on third day after it was issued.

H. Reciprocal Harvesting Privileges: Licenses from any other municipality cooperating with this town on a joint shellfish management program may harvest shellfish according to the terms of this license.

I. Revoked: Any shellfish licensee having three convictions for a violation of this ordinance within any 3 consecutive years, shall have his shellfish license automatically revoked for a period of a year.

1. A licensee whose shellfish license has been revoked pursuant to this ordinance may reapply for a license only after the revocation period has expired.

2. The revocation shall be effective from the date of mailing of a Notice of Revocation by the Town Clerk to the Licensee.

3. Any licensee whose shellfish license has automatically been revoked pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request for Hearing with the Town Clerk within thirty (30) days following the effective date of revocation. 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 Selectmen, upon the approval of the Commissioner of Marine Resources, may open and close areas for shellfish harvest. Upon recommendations 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 Selectmen may call a public hearing, and shall send a copy of the notice to the Department of Marine Resources. The decision of the Selectmen made after the hearing shall be based on findings of fact.

VII. Harvesting: The harvesting of shellfish within the town of Arrowsic is permitted only during those hours starting 1/2 hour before sunrise and ending 1/2 hour after sunset. It is unlawful to harvest shellfish using artificial light at any time.

It shall be unlawful for any person to harvest, take or possess shellfish from any areas closed by the town of Arrowsic in accordance with DMR Regulations, 13-188 CMR ch. 7. Harvesting shellfish in a closed area is a violation of this ordinance and is punishable under 12 M.R.S.A. §6671. Boundaries of conservation closures are explicitly defined in the conservation closure application submitted by the town of Arrowsic to DMR and are part of the resulting permit issued by DMR. These permits are posted at the town office and online on the DMR Nearshore Marine Resources Program website.

VIII. Minimum Legal Size of shellfish: Within the Town of Arrowsic, it is unlawful for any person to possess soft shell 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 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 in length to the amount of not more than ten (10) percent of any lot; 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; or European oysters which are less than three (3) inches in the longest diameter to the amount of not more than ten (10) percent of any lot.

A. Definitions:

1. Lot: The word "lot" as used in this ordinance means the total number of shellfish in any bulk pile. Where shellfish 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 shellfish shell stock.

B. Tolerance: The tolerance shall be determined by 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.

IX Stopping for inspection

A. It shall be unlawful for the operator of a motor vehicle, boat, vessel, or conveyance of any kind, or any person:

1. To fail or refuse to stop immediately upon request or signal of any municipal shellfish conservation warden in uniform.

2. After he has stopped, to fail to remain stopped until the Warden reaches his immediate vicinity and makes known to that operator the reason for the request or signal.

3. To fail or refuse to stand by immediately for inspection on request of the Warden.

4. Who has been requested or signaled to stop by the Warden to throw or dump into any water any marine organism, or any pail, bag, barrel or other container of any type, or the contents thereof, before the municipal Warden has inspected the same.

X. Penalty: A person who violates this ordinance shall be punished as provided by 12 M.R.S.A. Section 6671 (10).

XI. Effective Date: This ordinance, which has been approved by the Commissioner of Marine Resources, shall come into effect upon its adoption by the town provided a certified copy of the ordinance is filed with the Commissioner within twenty (20) days of its adoption.


XII 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.

XIII 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.

Certified: Attest:

Selectmen

By: 

Date: 

Town Clerk

By: 

Date: 