

Town of Roque Bluffs Shellfish Conservation Ordinance

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 Roque Bluffs, 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 the clams taken
 - E. Limiting the amount of clams taken daily by a harvester
3. **Shellfish Conservation Committee:** The Shellfish Conservation Program for the Town of Roque Bluffs will be administered by the Shellfish Conservation Committee consisting of five (5) members to be appointed by the Board of Selectmen for the term of one (1) year. The committee's responsibilities include:
 - A. Establishing annually in conjunction with the Department of Marine Resources the number of shellfish licenses to be issued.
 - B. Submitting to the Board of Selectmen proposals for the expenditures of funds for the purpose of shellfish conservation.
 - C. Keeping this ordinance under review and making recommendations to the Board of Selectmen for its amendments.
 - D. 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.
 - E. Recommending conservation closures and openings to the Board of Selectmen in conjunction with the area biologists of the Department of Marine Resources.
 - F. Submitting an annual report to the municipality and the Department of Marine Resources covering the above topics and all other committee activities.
4. **Definitions:**
 - A. **Resident:** The term "resident" refers to a person who has been domiciled in this municipality the Town of Roque Bluffs for six (6) consecutive months prior to the time his/her claim of such residence is made. A person who moves to Roque Bluffs must establish residency with the Town Clerk at that time and provide one (1) form from each of the three (3) sections from the chart below. The only exception to this requirement

shall be for those residents who reside elsewhere much of the year solely for the purpose of pursuing full-time higher education or while a member of the U.S. Armed Forces.

Section 1	Section 2	Section 3
• Copy of deed or property tax bill • Copy of lease AND recently executed affidavit by landlord affirming applicant's tenancy • Recently executed affidavit by landlord affirming applicant's tenancy AND evidence of most recent rent payment	• A utility bill or other work order dated within the past 60 days including: *Gas Bill *Oil Bill *Electric Bill *Telephone Bill *Cable/Satellite Bill • Dated within the past year: *W-2 Form • Dated within the past 30 days: *Payroll stub with physical address of applicant *Bank or credit card statement with physical address of applicant	• Any valid form of photo ID and evidence of residency, that may include: *A valid Maine Driver's License displaying a physical address *A valid Maine photo ID card displaying a physical address *A current vehicle registration displaying a physical address

- B. **Non-Resident**: The term "non-resident" means anyone not qualified as a resident under this ordinance.
- C. **Shellfish, Clams, and Intertidal Shellfish Resources**: When used in the context of this ordinance the words "shellfish", "clams", and "intertidal resources" mean soft-shell clams, i.e. *Mya Arenaria*.
- D. **Municipality**: For the purpose of this ordinance refers to the Town of Roque Bluffs, Maine.
- E. **Certified Municipal Shellfish Conservation Warden**: The law enforcement officer appointed by the Board of Selectmen to enforce this ordinance and is certified by the Department of Marine Resources.

5. Licensing:

Municipal Shellfish Harvesting 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. **Designation, Scope and Qualifications**:

- i. **Resident Commercial Shellfish License**: The license is available to residents of the Town of Roque Bluffs and entitles the holder to dig and take any amount of shellfish to sell from the shores and flats of this municipality and reciprocating municipalities.
- ii. **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 to sell from the shores and flats of this municipality.
- iii. **Resident Commercial of 70 free**: This license is available to residents of the Town of Roque Bluffs who are 70 or over and have held a commercial license for the previous three (3) years. It entitles the holder to dig and take any amount of shellfish to sell from the shores and flats of this municipality.
- iv. **License must be signed**: The licensee must sign the license to make it valid.
- v. **Application Procedure**: Any person may apply to the Town Clerk for the licenses required by this ordinance on forms provided by the 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, birthdate, height, weight, signature and whatever information the municipality may require.
 - 2. **Misrepresentation**: Any person who gives false information on a license application will cause said license to become invalid and void.
 - 3. **A person applying for, or holding a license, under this Ordinance**, shall notify the Town Clerk within ten (10) business days of an address change, regardless of whether the address change is also a change of residency.
- vi. **Fees**: The fees for the license must accompany in full the application for the respective license. Fees received for shellfish licensing shall be used by the town for shellfish management, conservation and enforcement.
 - **Resident Commercial**: Price to be determined March of each year, after DMR approval.
 - **Non-Resident Commercial**: Price to be determined March of each year, after DMR approval.

- Resident Commercial over 70: Free if the applicant has held a resident commercial license for the previous three (3) years.
- Non-Resident Commercial over 70: (10%) At a reduced cost.

B. **Limitations of Harvesters:** If, 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 determine limiting commercial shellfish licenses is an appropriate shellfish management option for the following year:

- i. Prior to March 15, of the current year, the Town Shellfish Conservation Committee, with the approval of the Commissioners of the Marine Resources, will establish commercial and non-residential licenses to be permitted following of M.R.S.A. Section 6671 and DMR Regulations Chapter 7.
- ii. The Town Shellfish Conservation Committee will notify the Town Clerk in writing on March 15, of the current year, the number of licenses sold the previous year.
- iii. Notice of the number of licenses to be issued and procedure for application shall be published in a trade or industry publication, or in a newspaper or combination newspapers with a general circulation, which the municipal officers consider in reaching persons affected, not less than ten (10) days prior to the period of issuance and shall be posted in the municipal offices until the period concludes.
- iv. On the first day of license sales, 10% of the total number of resident licenses issued in the previous year shall be made available to qualifying non-residents. Thereafter, non-resident licenses will be issued in accordance with the 10% rule as described in 12 M.R.S.A. Section 6671 (3-E) and DMR Regulations Chapter 7.
One for One license on Day 1, then 1 license @ 5 sold, which would equal 2 licenses sold from 1-5.

- * Shellfish Committee &/or Shellfish Warden have the right to approve/deny or override outside of Ordinance Rules, dependent on each situation being Uniquely different Stipulations.

The following chart explains the 10:1 ratio of resident license to non-resident license sales:

Number of Resident Licenses	Number of Non-Resident Licenses
1-5	0
6-10	1
11-20	2
21-30	3
31-40	4
41-50	5

- v. The Town Clerk shall issue licenses to residents and non-residents as allocated.
- vi. **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 ten (10) days prior to the initial sale date and shall be posed in the municipal offices.
- C. The Town Clerk shall issue licenses only after they are approved by the Shellfish Committee or Board of Selectmen.
- D. **License Expiration Date:** Each license issued under authority of this ordinance expires at midnight on the 31st of May next following date of issue, or ninety (90) days after the holder of such license moves from Roque Bluffs.
- E. **Suspension:** Any shellfish licensee having three (3) convictions for a violation of this ordinance shall have his/her shellfish license

automatically suspended for a period of thirty (30) days.

- i. A licensee whose shellfish license has been suspended pursuant to this ordinance may reapply for a license only after the suspension period has expired.
- ii. The suspension shall be effective from the date of mailing of a Notice of Suspension by the Town Clerk to the licensee.
- iii. Any licensee whose shellfish license has automatically been suspended pursuant to this section shall be entitled to a hearing before the Shellfish Conservation Committee upon the filing of a written Request of Hearing with the Town Clerk within thirty (30) days following the effective date of suspension. The licensee may appeal the decision of the Shellfish Conservation Committee before the Board of Selectmen by filing a written Request of Appeal with the Town Clerk within seven (7) days of the decision of the Shellfish Conservation Committee.
- iv. Any licensee whose State License has been revoked or suspended shall have his/her Town License revoked or suspended to coincide with the State's decision. The licensee will have their Town License reinstated with their State License has also been reinstated.

F. **Unpaid Fines:** All Municipal Ordinance fines issued must be paid in full before a new Town Shellfish License will be issued. A receipt from the District Court Office must be filed with the Town Clerk for verification of payment in full.

G. **Aiding and Abetting:** If a person holding a commercial license uses it to aid and abet the illegal harvest of clams, their license shall be suspended for three (3) months and they shall receive a \$500 fine upon conviction. Any second or subsequent convictions under this section of the ordinance shall result in twelve (12) month suspension and a \$1,000 fine upon conviction.

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 biologists that the status of shellfish resources 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 (10) days notice published in a newspaper having a 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 the

findings of facts.

7. **Minimum Legal Size of Softshell Clams:** It is unlawful for any person to possess softshell clams within the Town of Roque Bluffs, Washington County, which are less than two (2) inches in the longest diameter except as provided by Subsection B of this Section.

A. **Definitions:**

- i. **Lot** – The word “lot” as used in the ordinance means the total number of softshell clams in any bulk pile. When softshell clams are in box, barrel or other containers, the contents of each box, barrel or other container constitutes a separate lot.
- ii. **Possess:** For the purpose of this section, “possess” means dig, take harvest, ship, transport, hold, buy and sell retail and wholesale softshell clam shell stock.

- B. **Tolerance:** Any person may possess softshell clams that are less than two (2) inches if they comprise less than 10% of any lot. The tolerance shall be determined by numerical count 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 of it contains less than one peck.

- C. **Penalty:** Whoever violates any provision of this ordinance 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. **Period of Ordinance:** This ordinance shall remain in effect from the effective date until any further changes are made.
11. **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 validity of the remaining portions of this ordinance.
12. **Repeal:** Any ordinance regulating the harvesting or conservation of shellfish in the town and any provisions of any town ordinance, which is inconsistent with this ordinance is hereby repealed.