

Town of Barnstable
Marine and Environmental Affairs Department
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SUBJECT: Changes to the Town of Barnstable Shellfishing, Eel, Herring and Aquaculture rules and regulations as proposed by the Natural Resources Division of the Marine and Environmental Affairs Department after consultation with the Shellfish Committee.

BACKGROUND: The Town of Barnstable maintains a comprehensive compilation of rules and regulations for the management of town shellfish, eel and herring natural resources as well as town shellfish aquaculture licenses. An annual review of these regulations is conducted by staff to ensure that the regulations meet the current needs of the community. Changes in the regulations are recommended by staff to the Town Manager. The Shellfish Committee is invited to discuss the proposed changes and also to provide recommendation to staff and the Town Manager. The Town Manager holds a public hearing on any proposed revision to the regulations and the public is invited to comment on the proposed changes. The Town Manager's approval of shellfish, eel, herring and aquaculture regulations shall become effective upon the expiration of thirty (30) days from the date the Town Council is notified, in writing, of said regulation approval unless the Town Council votes within said time to disapprove of the said regulation(s).

SHELLFISH COMMITTEE REVIEW: Discussion May 14, 2025; Vote taken on SNAP permits May 14, 2025 5 SFC members present voted unanimously in favor, Vote taken on Behavioral expectations August 13, 2025 7 SFC members present, 6 voted in favor, 1 vote opposed

PUBLIC HEARING: Wednesday October 22, 2025 1:00PM via Zoom;
<https://townofbarnstable-us.zoom.us/j/84117119250>
Meeting ID: 841 1711 9250

ANALYSIS:

The following list represents the proposed changes and the rationale therefore. The regulations have been reformatted to include the proposed changes. The entire regulation is outlined and changes are highlighted in **bold** for ease of identification.

1: Proposal: Section 407-2; Amend the existing regulation by adding the wording **highlighted in bold.**

§ 407-2. Definitions.

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

APPRENTICE COMMERCIAL SHELLFISHING PERMIT — Granted under the authority of the Town Manager or Shellfish Constable to a resident child under the age of 16 for the purpose of assisting a sponsor Town of Barnstable commercial shellfish permit holder.

BATCH — All shellfish in each separate container.

BUSHEL — Except as otherwise noted, the quantity contained in a tote basket measuring 2,746 cubic inches in volume. Shellfish shall be level with the top of said tote basket.

CALENDAR WEEK — Seven full days beginning on any Sunday and ending on the following Saturday.

COMMERCIAL FISHERMAN — Any person who sells or offers for sale, shellfish, sea worms or eels, for cash or other consideration.

COMMERCIAL SHELLFISH PERMIT, TOWN OF BARNSTABLE — Granted under the authority of the Town Manager, for the taking of shellfish for sale or other consideration.

COMMONWEALTH OF MASSACHUSETTS COMMERCIAL SHELLFISHING PERMIT A permit issued by the Division of Marine Fisheries and defined in General Laws, Chapter 130, § 80.

CONCH — Those species of whelk known as *Busycon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

CULL — To sort and measure shellfish; separate seed from adult stock and replant seed.

DOMICILE — That place where (a person) has his true, fixed and permanent home and principal establishment, and to which whenever he is absent he has the intention of returning (Black's Law Dictionary, revised 4th ed.).

FAMILY — All those persons of the immediate family (spouse or partner and any unmarried children and grandchildren under the age of 18) domiciled and living under the same roof.

HARVEST — To catch, dig, take or attempt to catch, or take any fish, shellfish or bait.

HINGE WIDTH — The distance between the convex apex of the right shell and the convex apex of the left shell.

HYDRAULIC METHOD — The taking or attempt to take shellfish by means of water pressure pumped through a single pipe (wand), manifold or other device approved by Natural Resources, said pressure being supplied by a mechanical pump. The hydraulic method includes the raking or collection of shellfish dislodged from the bottom via said water pressure.

LAND or LANDING — To transfer the catch of fish or shellfish from any vessel to any other vessel or from the waters, flats or any vessel onto any land, pier, wharf, dock or other artificial structure.

LOW TIDE- For enforcement purposes, low tide is based on the Boston Tide Calendar available at the Marine Environmental Affairs Department. For all waterbodies on the north side of Town, Cape Cod Bay and Barnstable Harbor low tide is 0.5 hours after the time listed in the Boston Tide Calendar. For all waterbodies on the south side of Town, including Nantucket Sound, low tide is 1 hour after the time listed in the Boston Tide Calendar.

MANAGER — The Town Manager of the Town of Barnstable.

MASTER PERMIT — A permit allowing the commercial harvest of scallops, clams, mussels and eels.

PECK — The word "peck" whenever used herein shall mean the quantity contained in a standard metal wire peck basket, level with the top of said peck basket. Said quantity shall not exceed 10 quarts (672 cubic inches) dry measure. The said peck basket shall be the only authorized container allowed to recreationally harvest and contain shellfish unless another container is authorized by the Shellfish Constable or Deputy Shellfish Constable.

PROOF OF RESIDENCY — Current real estate tax bill, non-seasonal lease or, valid Massachusetts operator's license, or any other ID issued by the Massachusetts Registry of Motor Vehicles, in combination with Massachusetts motor vehicle registration, both listing a residential dwelling within the Town of Barnstable. The address of a post office box is not acceptable as proof of residency.

RECREATIONAL PERMIT — A permit granted under the authority of the Town Manager for the taking of shellfish for noncommercial domestic use only.

RESIDENT — Resident real estate taxpayers, year-round tenants, non-seasonal tenants (six months or more of the calendar year) of residential dwellings located within the Town of Barnstable.

SEED CLAM — Soft shell clams measuring less than two inches in the longest diameter.

SEED OYSTER — Oyster measuring less than three inches in the longest diameter.

SEED BAY SCALLOP — Bay scallops which do not have a well-defined raised annual growth line on the shell.

SEED QUAHOG — Quahog measuring less than one inch shell thickness (hinge width).

SHELLFISH — Includes, but not limited to, clams, quahogs, mussels, oysters, scallops, razor clams or razor fish, sea clams, sea scallops, sea quahogs, conchs and whelks.

SNAP- Refers to the Supplemental Nutrition Assistance Program and is a federal nutrition program administered by the Department of Transitional Assistance (DTA) for Massachusetts residents.

SUNRISE- For enforcement purposes, time of sunrise is based on the Boston Tide Calendar available at the Marine Environmental Affairs Department.

SUNSET- For enforcement purposes, time of sunset is based on the Boston Tide Calendar available at the Marine Environmental Affairs Department.

TOTE BASKET — The quantity contained in a tote basket measuring 2,746 cubic inches in volume. Shellfish shall be level with the top of said tote basket.

Rationale- Addition of SNAP definition to accompany an additional recreational shellfish permit being offered at no fee to those Town of Barnstable resident families enrolled in SNAP

2: Proposal: Section 407-3; Amend the existing regulation by removing the adding the wording **highlighted in bold.**

§ 407-3. Classes of recreational shellfishing permits, licensing requirements and conditions. Licenses shall be subject to fees that could change annually.

A. Resident recreational permits: Those who pay real estate taxes or are residents, as defined, of the Town of Barnstable are entitled to a Town of Barnstable recreational shellfishing permit. This permit also allows the taking of sea worms, herring and eels for noncommercial purposes.

(1) Family recreational permit: issued on the basis of one per resident family, as defined.

(2) Individual recreational permit: issued to unmarried resident individuals over the age of 18.

(3) SNAP family recreational permit: issued on the basis of one per resident family, as defined, to those families enrolled in the Supplemental Nutrition Assistance Program. Proof of enrollment in SNAP must be provided upon application for this permit.

B. Nonresident recreational permit: issued to an individual; regardless of residency. The same conditions as resident recreational permits apply, with the exception of Town of Barnstable residency.

C. Senior recreational permit: issued to an individual who has attained the age of 65 and is a legal resident of, or pays real estate taxes to, the Town of Barnstable; one permit per family, as defined.

D. Seasonal recreational permit: issued to an individual, regardless of residency. The permit shall be effective from June 1 through August 31 for the year it was issued. The same conditions as resident recreational permits apply with the exception of Town of Barnstable residency.

E. Veteran recreational permit: issued to a resident of the Commonwealth of Massachusetts who is a veteran, as defined by MGL Chapter 4, Section 7, cl. 43rd as amended by the Acts of 2005, Chapter 130. The same conditions as resident recreational permits apply, with the exception of Town of Barnstable residency.

F. Permit conditions.

(1) Permit expiration date: Recreational permits expire on January 15, each year, except as otherwise noted.

(2) Unlawful harvest without a recreational permit: No person shall take or attempt to take shellfish or sea worms within the Town of Barnstable, unless he or she is in possession of a valid Town of Barnstable shellfish permit.

(3) Prohibition of sale of shellfish: No person shall sell or offer for sale, for money or other consideration, any shellfish, sea worms, herring or eels, taken under a recreational permit.

(4) Transfer of permit: The Town of Barnstable shellfish permit is not transferable without the written permission of the Town Manager or Shellfish Constable. An illegally transferred permit shall be considered invalid.

(5) Child under 12: No person (child) under the age of 12 years shall be allowed to use the recreational permit unless accompanied by an adult with a valid shellfish permit.

(6) Guests of a recreational permit holder: A recreational permit holder may take guests to dig with them as long as only one weekly limit is taken. One limit per permit is allowed. The permit holder must be present and is responsible for any violations against the shellfish rules and regulations by the guest(s).

(7) The Town of Barnstable shellfish permit shall be visibly displayed to the Shellfish Constable or Deputy Shellfish Constable upon request.

(8) Landing restriction: All shellfish harvested under a recreational permit shall be landed in the Town of Barnstable.

Rationale- Marine Environmental Affairs Department recognizes the benefit a free resident recreational shellfish permit could provide to families enrolled in SNAP by providing access to the shellfishery for additional sustenance. In addition, condition #8 addresses the need for consequences of abusive, inappropriate and/or aggressive behavior when out shellfishing and establishes such expectations of decent behavior.

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3: Proposal: Section 407-15; Amend the existing regulation by removing the ~~crossed out~~-wording **highlighted in bold** and adding the wording **highlighted in bold**.

§ 407-12. Classes of permits and permit conditions.

A. Town of Barnstable commercial shellfishing permits are granted under the authority of the Town Manager for the taking of shellfish for sale or other consideration, issued to persons, having attained their 16th birthday and who are domiciled in the Town of Barnstable. When the holder of a Town of Barnstable commercial shellfish permit is no longer domiciled in the Town of Barnstable, said Town of Barnstable commercial shellfish permit shall be void.

(1) Limitation of available licenses. Commercial shellfishing licenses shall be issued each year only to commercial shellfish license holders of the preceding year, who apply for license renewal. Commercial shellfish license renewals must be applied for between January 1 and January 31.

(2) Commercial Shellfishing License Procedure:

(a) New commercial shellfishing permits may be issued at the rate of one new permit for every one non-renewed permit, or permit that is void as a result of other causes (i.e., forfeiture, death, etc.).

(b) If a commercial permit becomes void as a result of death, the permit may be inherited by one individual next of kin. Within 30 days of the death of the commercial permit holder the individual next of kin must: notify the Town of the death of the commercial permit holder, complete a Town of Barnstable commercial shellfish permit application, prove to the satisfaction of the Licensing Authority that they are a bona fide, principally domiciled resident in the Town of Barnstable and have been principally domiciled within the Town for at least 12 consecutive months prior to the date of application for inheritance, pay the appropriate fee in full for the commercial permit as determined in §407-12(2)(d)(1) and procure a Commonwealth of Massachusetts commercial shellfishing permit. Failure to meet these requirements within the thirty days will result in the permit being offered to the lottery under §407-12(2)(d).

(c) To become eligible for a new commercial permit you must apply, pursuant to these regulations, within January 1st and January 31st and pay the non-refundable \$5 application fee.

Upon the hand delivery of a completed legitimate application, and payment of the fee, the applicant's name will be entered into a lottery. On February 1st, the applicant names will be drawn by lottery to determine the sequential chronological order that applicants acquire a permit. On February 1st, the Natural Resources Office shall post on the bulletin board outside its building, on Phinney's Lane, a chronological list of applicants as determined by lottery eligible for a commercial permit as determined by vacancy.

(d) If an existing commercial permit becomes void and is not subject to inheritance, during the calendar year (January 1 through December 31) for which the permit was issued, the next eligible applicant as determined by the lottery will be notified, by mail, of the availability of a permit. The applicant shall have ten (10) days from the date of notification to pay the balance of the permit fee or the permit will be offered to the next eligible applicant as determined by the lottery. The applicant will be notified by Natural Resources when the new permit is available to be picked up. New permits shall be issued for a given commercial shellfishing permit year (April 1 through March 31). The applicant list shall be dissolved each year as of December 31st.

Note: If any dates stated in Regulation 407-12A fall on a Saturday, Sunday or Holiday recognized by the Town of Barnstable, the next Marine and Environmental Affairs Department business day shall apply.

B. Commonwealth of Massachusetts commercial shellfishing permit. This permit is required by Massachusetts General Law to dig or take shellfish within the Commonwealth of Massachusetts for commercial purposes and required prior to issuance of the Town of Barnstable commercial shellfish permit.

C. Apprentice commercial shellfishing permit. The Town Manager or Shellfish Constable may issue an apprentice commercial shellfishing permit to a resident child who is sponsored by a Town of Barnstable commercial shellfishing permit holder or Town of Barnstable commercial permit holders. Said child must be under the age of 18. The apprentice shall assist only the sponsor(s), and only in the harvest of the sponsor's catch limit(s). The apprentice shall not harvest shellfish without the accompaniment of a sponsor. Upon completion and documentation to the satisfaction of the Shellfish Constable of 400 hours of having worked under the tutelage of the sponsor(s) and documentation of successful completion of a Coast Guard boaters safety course, the apprentice commercial shellfishing permit holder may apply for a Town of Barnstable commercial shellfishing permit pursuant to these rules and regulations. The allowances to an apprentice permitted under this regulation are distinct and separate from the stipulations that apply to new applicants under Subsection A(2) above. After five years of holding a Town of Barnstable commercial shellfish permit as a result of having completed apprenticeship, the commercial permit shall be added to the closed commercial fishery and subject to Subsection A(2) above.

D. Permit conditions.

(1) Commercial shellfishing permit fees:

- (a) Master: \$550.
- (b) Age 65 or older, Master Senior: \$350.

(2) Commercial shellfishing permits expire on March 31 each year.

(3) Unlawful harvest without a commercial shellfishing permit. No person shall take or attempt to take shellfish for sale or other commercial purpose, unless said person is the holder of a valid Town of Barnstable commercial shellfish permit. It shall be prima facie evidence that persons shellfishing on a Town of Barnstable commercial shellfish permit are utilizing said permit for commercial purposes, and are subject to all regulations governing such use. This shall not apply to aquaculture license holders while on their licensed site.

(4) Assisting in commercial harvest prohibited. A person shall not assist in the commercial harvest or culling of shellfish unless said person holds a Town of Barnstable commercial shellfish permit, unless otherwise stated.

(5) Expectation of Behavior- Abusive, inappropriate or aggressive behavior toward other shellfishers and/or Natural Resources staff will result in the violator's catch being confiscated and the violator's shellfishing privileges being suspended for a period of no less than one shellfishing week. If continued violations under this condition apply, the violator's shellfish permit may be further suspended or revoked. Any person who is issued a suspension or revocation notice will be provided the opportunity for a hearing with the Director of Marine Environmental Affairs Department pursuant to §407-71 of these regulations.

Rationale- addresses the need for consequences of abusive, inappropriate and/or aggressive behavior when out shellfishing and establishes such expectations of decent behavior.