

Town of Barnstable
Marine and Environmental Affairs Department
1189 Phinney's Lane, Centerville, MA 02632
Derek Lawson, Director
508-790-6273 / Fax 508-790-6275
www.townofbarnstable.us



Animal Control 508-790-6274
Harbormaster 508-790-6273
Marinas 508-790-6273
Moorings 508-790-6273

Natural Resources 508-790-6272
Sandy Neck 508-790-6272
Sandy Neck Gatehouse 508-362-8300

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: Vote taken 01/08/2025, 6 members in attendance all voted unanimously in favor of moving items to public hearing

PUBLIC HEARING: February 25, 2025 via Zoom
<https://townofbarnstable-us.zoom.us/j/82672042067>
Meeting ID: 826 7204 2067

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 407-6; Amend the existing regulation by removing the ~~crossed-out~~ wording **highlighted in bold** and adding the wording **highlighted in bold**.

§407-6. Minimum size limits.

Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession (in basket, bucket, bag, or other container):

A. Soft shell clams less than two inches in longest **shell** diameter to the amount of more than 5% of any batch.

B. Quahogs less than one inch shell thickness (hinge width) to the amount of more than 5% of any batch.

C. Bay scallops without a well-defined raised annual growth ring to the amount of more than 5% of the total catch remaining. (See scallop regulations).

D. Sea scallops less than 3 1/2 inches in diameter from the hinge to the outer edge to the amount of more than 10% of the entire lot. This tolerance of 10% shall be determined by numerical count taken at random of not less than one peck nor more than four pecks of the entire lot.

E. Sea clams less than five inches in longest diameter to the amount of more than 5% of any batch.

F. Oysters less than three inches in longest diameter to the amount of more than 5% of any batch.

G. Jackknife razor clams (*Ensis leei*) less than four inches in total shell length to the amount of more than 5% of any batch.

~~G. H.~~ Eels or elvers less than nine inches in total length.

Rationale: addresses the need for protection of razor clams that have not yet had an opportunity to spawn in recognition that the state does not have an established minimum size limit for this species.

2: Proposal: Section 407-8; Amend the existing regulation by removing the adding the wording **highlighted in bold.**

§407-8. Shellfishery conservation and management.

A. Temperature restriction. Dry digging for soft shell clams and quahogs is prohibited when the air temperature is 28F or below. **Dry digging and/or dry salting for razor clams is prohibited when the air temperature is 28F or below. Real time temperature will be determined by the National Weather Service Station located at the Barnstable Municipal-Boardman Airport (KHYA)**
<https://forecast.weather.gov/MapClick.php?lat=41.6534&lon=-70.2976>

B. Backfilling of dig holes. All dig sites shall be backfilled when dry digging **all** shellfish.

C. Mainland thatch conservation. The digging of shellfish in the thatch (grass) on the mainland shore is prohibited. Dig sites in the thatch on flats and islands shall be repaired.

D. Shucking restriction. All shellfish harvested shall be brought ashore in the shell.

E. Wet storage prohibition. The wet storage of shellfish in the Town of Barnstable waters is prohibited.

F. Transport of seed restriction. No person shall transport or move seed ~~clams, quahogs, oysters or scallops~~ **shellfish of any species**, except that a five percent (by count) of seed shall be allowed as a margin of error.

G. Area closures. No person shall take or attempt to take shellfish from a closed area with the exception of scallops. Shellfishing for any purpose is prohibited in these areas (See also Shellfish Area Status). Areas may be posted closed from time to time by Natural Resources or the Board of Health due to high concentrations of seed, point source pollution or health hazard, propagation projects or other purpose. The taking of shellfish from these areas is prohibited. Also, the taking of shellfish from any shellfish culturing gear or tampering with said gear deployed by public and/or private entities on approved designated areas is prohibited. Said approved designated areas shall be considered closed areas.

H. Inspections. All shellfish and sea worms harvested in the Town of Barnstable are subject to inspection. Failure to display shellfish upon demand of enforcement personnel shall be a violation.

I. Destruction of shellfish or shellfish habitat. The willful destruction of shellfish and/or shellfish habitat is prohibited and shall be punishable by a fine not to exceed \$1,000 per incident, and \$1,000 per day for any such destruction which continues over more than a twenty-four hour period of time.

Rationale- addresses establishment of a temperature restriction related to razor clamming to protect smaller animals from unnecessary death as a result of exposure to low temperatures. Also addresses the need for a location where temperature can be defined and therefore enforceable if infractions occur.

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**.

§407-15. Shellfish conservation and management.

A. Temperature restrictions. Dry digging for sot shell clams and quahogs is prohibited when the air temperature is 28F or below. **Dry digging and/or dry salting for razor clams is prohibited when the air temperature is 28F or below. Real time temperature will be determined by the National Weather Service Station located at the Barnstable Municipal-Boardman Airport (KHYA) <https://forecast.weather.gov/MapClick.php?lat=41.6534&lon=-70.2976>** However, the commercial harvest of mussels, the subtidal harvest of quahogs and the use of hydraulic method or a hand plunger to subtidally harvest soft shell clams, jackknife clams (*Ensis leei*) and common razor clams (*Tagelus plebeius*) on the Southside will be allowed.

B. Backfilling of dig holes. All dig sites shall be backfilled when dry digging **all** shellfish.

C. Mainland thatch conservation. The digging of shellfish in the thatch (grass) on the mainland shore is prohibited. Dig sites in the thatch on flats and islands shall be repaired.

D. Shucking restriction. All shellfish harvested shall be brought ashore in the shell.

E. Transport of seed restriction. No person shall transport or move seed ~~clams, quahogs, oysters or scallops~~ **shellfish of any species**, except that a five percent (by count) of seed shall be allowed as a margin of error.

F. Area closures. No person shall take or attempt to take shellfish from a closed area with the exception of scallops. Shellfishing for any purpose is prohibited in these areas (See also Shellfish Area Status). Areas may be posted closed from time to time by Natural Resources or the Board of Health due to high concentrations of seed, point source pollution or health hazard, propagation projects or other purpose. The taking of shellfish from these areas is prohibited. Also, the taking of shellfish from any shellfish culturing gear or tampering with said gear deployed by public and/or private entities on approved designated areas is prohibited. Said approved designated areas shall be considered closed areas.

G. Inspections. All shellfish and sea worms harvested in the Town of Barnstable are subject to inspection. Failure to display shellfish upon demand of enforcement personnel shall be a violation.

H. Destruction of shellfish or shellfish habitat. The willful destruction of shellfish and/or shellfish habitat is prohibited **and shall be punishable by a fine not to exceed \$1,000 per incident, and \$1,000 per day for any such destruction which continues over more than a twenty-four hour period of time.**

Rationale- addresses establishment of a temperature restriction related to razor clamming to protect smaller animals from unnecessary death as a result of exposure to low temperatures. Also addresses the need for a location where temperature can be defined and therefore enforceable if infractions occur. Also addresses consistency needed between recreational and commercial regulations pertaining to destruction of shellfish habitat now that the \$1,000 fine has been removed from §1-5 of the Town Code.

4: Proposal: Section 407-21; Amend the existing regulation by adding the wording **highlighted in bold**.

§407-21. Southside commercial quahog harvest restrictions.

A. Harvest days. The commercial harvest of quahogs on the Southside of the Town of Barnstable shall be allowed on Monday through Saturday. Harvest by commercial permit on Sunday is prohibited.

B. Commercial quahog harvest limit **within south side embayments (SC19-SC28)**. The total daily limit of littleneck, cherrystone or mixed (littleneck/cherrystone) shall not exceed three level tote baskets, as defined. The total daily limit of all quahogs (i.e., littlenecks, cherrystones and chowders) shall not exceed 5 level tote baskets in any combination. Chowder quahogs shall be culled and bagged separately from littlenecks and cherrystones prior to landing, if the total catch exceeds three tote baskets.

C. Commercial quahog limit outside south side embayments (SC18). The total daily limit of all quahogs from SC18 shall not exceed 20 level tote baskets. Commercially harvested quahogs from SC18 cannot be combined with commercially harvested quahogs from within SC19-SC28 to exceed 20 level tote baskets.

Rationale: gives opportunity for higher commercial daily quahog harvest limits from those areas that were not historically managed by the Town. Recommendation is consistent with how other towns manage their outer CCB and SC fisheries but is more restrictive than the amount that would be allowed by the state.

5: Proposal: Section 407-22; Amend the existing regulation by removing the wording ~~crossed-out~~ and **highlighted in bold** and adding the wording **highlighted in bold**.

§407-22. Northside commercial quahog harvest restrictions.

A. Harvest days. The commercial harvest of quahogs on the Northside of the Town of Barnstable shall be allowed Monday through Saturday.

B. Commercial quahog harvest limit **within Barnstable Harbor (CCB29 and CCB31-CCB34)**. The total daily limit of commercially harvested quahogs **from within Barnstable Harbor (CCB29 and CCB31-CCB34)** shall not exceed two level tote baskets, as defined.

C. Commercial quahog limit outside Northside embayments (CCB30). The total daily limit of all quahogs from CCB30 shall not exceed 20 level tote baskets. Commercially harvested quahogs from CCB30 cannot be combined with commercially harvested quahogs from within CCB29 and CCB31-CCB34) to exceed 20 level tote baskets.

~~C. D.~~ **D. Commercial quahog harvest area restriction.** The commercial harvest of quahogs shall be allowed in all areas of Barnstable Harbor open to the harvest of shellfish, with the exception of the Scudder Lane Recreational Area, as defined under Article VII §407-44(A)1 **and the Barnstable Harbor closed to commercial zone as defined under Article VII §407-45(A)2.**

Rationale: gives opportunity for higher commercial daily quahog harvest limits from those areas that were not historically managed by the Town. Recommendation is consistent with how other towns manage their outer CCB and SC fisheries but is more restrictive than the amount that would be allowed by the state.

6: Proposal: Section 407-36; Amend the existing regulation by removing the **crossed out**-wording **highlighted in bold** and adding the wording **highlighted in bold**.

§407-36. Commercial jackknife clam and common razor clam shellfishing.

A. Commercial jackknife clams (*Ensis leei*) and common razor clam (*Tagelus plebeius*) harvest limit. The total commercially harvested daily limit of either species shall not exceed four level tote baskets, as defined, whether harvested in the Northside or Southside areas open for commercial harvest.

B. Minimum size limit. Shellfish shall be culled and all seed returned to the waters and flats immediately. Persons shall not take or have in their possession (in basket, bucket, bag or other container) jackknife razor clams (*Ensis leei*) less than four inches in shell length to the amount of more than 5% of any batch.

C. ~~B.~~ Southside harvest restrictions.

(1) Harvest area restriction in the intertidal zone. The commercial harvest of jackknife clams and common razor clams by dry digging on the Southside of Town of Barnstable is prohibited. The commercial harvest of jackknife clams and common razor clams from the intertidal area, that area between **the** mean low-water line and the mean high-water line, or any flat or beach area which is exposed at low tide, is strictly prohibited, unless otherwise stated.

(2) Harvest method. Jackknife clams and common razor clams may be commercially harvested on the Southside by hydraulic method or hand plunger. No other devices or materials shall be used, unless approved by the Natural Resources Office. All hydraulic method and hand plunger rules and regulations as defined for the commercial harvest of soft shell clams pertain to the commercial harvest of jackknife clams and common razor clams. (Refer to commercial soft shell clams shellfishing rules and regulations).

(3) Harvest days/hours. Refer to commercial soft shell clams shellfishing rules and regulations.

D. ~~C.~~ Northside harvest restrictions.

(1) Harvest days. The commercial harvest of jackknife clams and common razor clams shall be allowed Monday through Saturday.

(2) Harvest area restriction. The commercial harvest of jackknife clams and common razor clams shall be prohibited in the Scudder Lane Recreational Shellfishing Area, Huckins Island and all tidal flats associated with the island and areas closed for management and/or pollution closures. The commercial harvest of jackknife clams and common razor clams in the area stated above shall be effective Tuesday January 1, 2019 through December 31, 2019. Beginning January 1, 2020, the opening and closing of the above mentioned area shall be governed by Section 188-4(A)2 of the Town of Barnstable Code.

(3) The commercial harvest of jackknife clams and common razor clams shall be allowed west of a line extending north from Calves Pasture Point, excluding Huckins Island and all tidal flats associated with the island, commercial harvest is prohibited on this island. Harvest method: razor clams may be taken with a standard clam hoe (rake) in areas designated by the Town Manager. No shovels, forks, or other devices or materials shall be used, unless approved by the Natural Resources Office.

(4) All helpers actively helping a commercially licensed shellfisherman, harvesting razor clams, shall be

Rationale- addresses the need for protection of razor clams that have not yet had an opportunity to spawn in recognition that the state does not have an established minimum size limit for this species.

7: Proposal: Section 407-45; Amend the existing regulation by removing the adding the wording ~~crossed out~~ and **highlighted in bold** and by adding the wording **highlighted in bold**.

§407-45. Areas Closed to Commercial Shellfishing:

A. Northside:

(1) Scudder Lane Recreational Shellfishing Area as defined above.

(2) ~~Barnstable Harbor: except as otherwise noted.~~ **Closed to Commercial Zone Barnstable Harbor: the waters, flats and all tributaries of that portion of Barnstable Harbor drawn northwest from a pole at Harris Meadow Lane 41°42'35"N, 70°18'57"W to a closed to commercial shellfishing sign located on the northwest tip of Huckins Island 41°43'01"N, 70°18'57"W, southeast around Huckins Island to a closed to commercial shellfishing sign on the southern flat of Huckins Island with a line drawn south to a closed to commercial shellfishing sign at Calves Pasture Point.**

B. Southside:

(1) The Handy Point Quahog Propagation Area is defined as the waters and intertidal flat within an area marked by yellow "NR" marker buoys and/or signposts as deployed near Handy Point in Cotuit Bay.

(2) The West Bay Recreational Shellfishing Area: the waters, flats and shoreline within an area beginning from the West Bay Landing at Bridge Street to the Wianno Yacht Club pier to the "NR/No Shellfishing" buoys located offshore (DMF/SC22.11).

Note: For current information on the above listed areas, phone Natural Resources at 508-790-6272 or the Division of Marine Fisheries.

Periodically, updated shellfish area maps and shellfish area opening and closures are available online at: <http://town.barnstable.ma.us> <https://www.townofbarnstable.us/ispol.asp>

Rationale- addresses the need for the scaled back Closed to Commercial Zone in Barnstable Harbor to be defined. Also addresses the change in the Town of Barnstable main website address.