

Chapter 122: SHELLFISH, TAKING OF

[HISTORY: Adopted by the Special Town Meeting of the Town of Nantucket 6-16-1975 by Art. 7. Amendments noted where applicable.]

§ 122-1. Permit required.

No person without a permit from the Selectmen shall take any shellfish from the waters of the Town of Nantucket.

§ 122-2. Permit conditions.

No person shall receive a permit from the Selectmen for the taking of shellfish unless under the following conditions, viz (for commercial use):

- A. The applicant shall be at least 14 years of age.
- B. The applicant must live in the Town of Nantucket for at least one year and maintain a domicile therein.
- C. The applicant shall pay as a fee for said permit a sum to be set by the Selectmen from time to time, except that there shall be no fee charged to any resident applicant over 60 years of age who does not hold a state commercial permit and agrees not to sell his/her catch in the commercial market. The Selectmen may set fees for commercial and family licenses. **[Amended 4-13-1998 ATM by Art. 46, approved 7-31-1998]**
- D. The applicant shall complete the permit application and submit it to the Harbor and Shellfish Advisory Board for its review, together with any additional information or documentation requested by it to demonstrate eligibility. The applicant shall have the burden of demonstrating eligibility to the satisfaction of the aforementioned Board. Upon receipt of a completed application, the Board shall make a recommendation to the Selectmen with respect to the issuance of the permit. This shall be done within 30 business days. **[Added 4-6-1982 ATM by Art. 35, approved 10-4-1982]**
- E. Applications for commercial scalloping permits shall be filed between January 1 and March 31 for the season beginning the following November 1. Late applications shall be subject to the following penalty: the permit shall be effective either as of December 1, or as of the 30th day after the date of application, whichever is later. **[Added 4-8-1996 ATM by Art. 45, approved 7-15-1996]**

§ 122-3. Period of permit.

Permits shall be issued for a period of one year from April 1.

§ 122-4. Authorization of Clerk.

The Town Clerk or other person designated by the Selectmen shall be authorized to issue and sign all permits.

§ 122-5. Establishment of limits.

The Selectmen shall, from time to time, establish limits of takings for commercial license holders and for family license holders and shall fix the same limits having due regard and consideration for the then-current supply and conditions for the propagation of shellfish.

§ 122-6. Methods of taking.

No person shall take scallops from the waters of Nantucket by any other method than hands, dredges, rakes and poles, and no person shall take shellfish other than scallops from the waters of Nantucket by any other method than hands, rakes and poles, except by special permission, which shall be designated on the permit and on the record maintained by the Board of Selectmen.

§ 122-7. Jet pumps prohibited.

No person shall take clams in the waters of Nantucket by the method known as "jet pumps."

§ 122-8. Days and hours to be fixed.

The Selectmen shall, from time to time, fix the days and hours during which shellfish may be taken and shall fix the same having regard for the supply of and conditions for the propagation of shellfish and may establish places for landing shellfish taken under a commercial license.

§ 122-9. Inspection; revocation upon refusal.

No person shall be granted any such permit for the taking of eels, sea worms and any and all kinds of shellfish unless he agrees (and the acceptance of such permit shall constitute such agreement) that he will, and that any other person who, for the time being, has or shall have in his custody or possession any building, boat, vehicle, barrel, box, tub, crate or any other vessel or receptacle, containing or suitable for containing shellfish, and belonging to him or being under his control, shall, at any time or place, when requested so to do by either of said Selectmen or by their authorized agent or by any Constable or Fish Warden of said Town, open any such building, vehicle, barrel, box, crate or other vessel or receptacle and fully expose to them or either of them the contents thereof for inspection; and if such holder of a permit or such other person as aforesaid, when so requested, refuses or neglects so to do, said Selectmen may revoke said permit or suspend the same for any stated time, at their decision.

§ 122-10. Revocation or suspension of permit.

If any person having such permit for the taking of shellfish violates any law of the commonwealth or any regulation made by said Selectmen relating to shellfish or shellfisheries in said Town, said Selectmen may revoke said permit or suspend the same for any stated time, at their discretion.

§ 122-11. Family permits; fee.

- A. Family permits shall be issued for a period of one year from April 1 at a fee to be set by the Selectmen and shall be good for the taking of eels, sea worms and any and all kinds of shellfish and shall not allow the taking of shellfish of a size or at a season prohibited by law and shall be subject to such other rules and regulations as the Selectmen shall set from time to time.
- B. Notwithstanding the foregoing, nontaxpaying, nonresident family permits shall be issued for a fee of not less than \$25.

§ 122-12. Rules and regulations regarding scallops.

Notwithstanding any other rule or regulation established by the Board of Selectmen, scallops may only be taken from the waters of Nantucket subject to regulations consistent with the following further regulations:

- A. Commercial scallop season shall start November 1 and end March 31.
- B. Scallops may be taken under a commercial license daily except Sunday.
- C. Transfer of scallops from one commercial boat to another is prohibited, and it is unlawful to pick up another person with more than 3 1/2 bushels of scallops in the commercial boat.
- D. There shall be a limit of two commercial scallop licenses per boat. This subsection shall take effect for the 1995 - 1996 scalloping season. **[Added 4-12-1994 ATM by Art. 67, approved 4-29-1994; amended 4-10-1995 ATM by Art. 69, approved 7-31-1995]**

§ 122-13. Restriction of scallop-taking areas.

Wading for scallops by the family permit holder shall be prohibited by the Shellfish Warden or Constable if he is of the opinion that the area being fished is a seed area.

§ 122-14. Violations and penalties.

- A. Whoever takes any shellfish from the waters of said Town, except for family use as aforesaid or except as otherwise allowed by law, shall be liable to a penalty of not less than \$10 nor more than \$50.
- B. Whoever takes any shellfish from the waters in said Town without such permit, except for family use as aforesaid, or contrary to the provisions of such permit shall be liable to a penalty of not less than \$10 nor more than \$50.
- C. Any person taking scallops other than adult scallops from the flats or tide waters of said Town shall be liable to a fine of \$25. **[Amended 4-13-1998 ATM by Art. 46, approved 7-31-1998]**
- D. No person is allowed by law to take from the waters of said Town or to sell or to offer for sale or to have in his possession any quahogs measuring not less than two inches across, clams measuring not less than two inches across and oysters measuring not less than three inches across or along the widest part. Any person violating this provision of law shall be liable to a fine of not less than \$10 and not more than \$50. **[Amended 4-6-1982 ATM by Art. 35, approved 10-4-1982]**
- E. Any holder of a commercial license who shall violate these rules and regulations or any other rule or regulation established hereunder, in addition to any other penalties, shall have said license or permit suspended by the Shellfish Warden for not less than one day for a first offense and not less than five days for any succeeding offense.

§ 122-15. Authorization of Selectmen to enforce. [Added 4-6-1982 ATM by Art. 35, approved 10-4-1982]

The Selectmen shall have authorization to control, regulate or prohibit the taking of eels and any and all kinds of shellfish and sea worms within the Town and County of Nantucket.

§ 122-16. Enforcement. [Added 4-6-1987 ATM by Art. 33, approved 7-15-1987]

The Shellfish Warden and his deputies are hereby designated enforcing persons hereunder. The enforcing person may, as an alternative to initiating criminal proceedings, proceed to a noncriminal disposition of any violation of this chapter pursuant to the procedures set forth in MGL c. 40, § 21D.