

**Chapter 9: Marine Activities, Areas and Structures, Article IV: Fishing
“Shellfishing” and “Finfishing” Ordinances**

It is ordained by the Town Council that Sections 9-123 through 9-135 of the Revised Ordinances of the Town of New Shoreham, Rhode Island are hereby amended to read as follows:

Division 1. Generally

Section-122 The following ordinances are presented under the authority of RIGL 20-3-7 by the electors of the Town of New Shoreham. The purpose of this division is to regulate in the public interest the taking of shellfish and finfish in the Great Salt Pond for commercial and private use by establishing restrictions as to quantities taken and methods of taking that will allow for the protection, conservation and reproduction of the shellfish, finfish and crab in the Great Salt Pond as authorized by the electors of the town at a town meeting held, May 2, 1967 under the authority of Chapter 171 of the Public Laws of 1896 (G.L. 20-17-2) and town meeting July 11, 1983. (G.L. 20-3-7 of 1983).(Rev. Ords. 1967, Ch.11,1: Ord. 6-5-89 (2), 1)

Division 2. Shellfishing

Sec. 9-136. Definitions Shellfish, finfish and crab shall refer to all species of mollusk and crustacea, including and without limitation, oysters, clams, softshell clams, sea clams, scallops, mussels, quahogs, crabs either blue, sand or rock, and flounder both winter and summer, and all other finfish naturally found in the Great Salt Pond.

Bay Quahog (Quahog): *Mercenaria mercenaria*

Bay Scallop: *Argopecten irradians*

Black sea bass: *Centropristes striatus*

Blue Crab: *Callinectes sapidus*

Blue fish: *Pomatomus saltarix*

Blue Mussel: *Mytilus edulis*

Bullrake: any curved metal instrument or basket with four (4) or more tines (teeth) which is customarily used to harvest bay quahogs.

Bushel: a standard U.S. bushel, 2150.4 cubic inches capacity.

Charter or Party Boat: any vessel that carries passengers for hire to engage in fishing.

Cod: *Gadus morhua*

Commerce: the transfer of finfish, mollusks, or crustaceans transferred to a dealer, or offered for sale, barter, trade, shipment on consignment, or packed for shipment.

Commercial Shellfish License: A license duly issued by the Town of New Shoreham and the State of Rhode Island authorizing an individual to harvest or take shellfish from the Great Salt Pond to be offered for sale.

Conch: Channeled Whelk – *Busycotypus canaliculatum*; Knobbed Whelk – *Busycon caria*

Dealer: person who is licensed by the State of Rhode Island to sell, purchase, barter and/or trade seafood.

Eel: *Anguilla rostrata*

Fyke Net: a conical shaped net supported by hoops, which also utilizes a leader to direct fish to the net.

Fluke (Summer Flounder): *Paralichthys dentatus*

Fork Length: the straight linear distance from the tip of the snout to the fork of the tail.

Golden: Any person 65 years or older.

GSP-Great Salt Pond: All harbor waters enclosed within the bounds of a straight line across the northerly extension of the New Harbor breakwaters, and based upon the physical configuration of the Harbor in 1989.

Green Crab: *Carcinus maenas*

Hinge Width: The distance between the convex apex of the right shell and the convex apex of the left shell.

Jonah/Northern Crab: *Cancer borealis*

Land or Landing: to enter port with fish on board, to begin offloading the fish, or to offload fish.

Lobster: *Homarus americanus*

Mechanical power: any source of energy or power other than exclusively human power.

Menhaden: *Brevoortia tyrannus*

Netting: a meshed fabric which exceeds (8) feet in length or width including, but not limited to seines, weirs, fyke nets, otter trawls, and gill nets.

Non-commercial Shellfish License: A license duly issued by the Town of New Shoreham authorizing an individual to harvest or take shellfish from the Great Salt Pond. Shellfish taken under this license cannot be offered for sale or trade. Non-commercial shellfish licenses included taxpayer and/or resident, seasonal (summer) and golden licenses.

Ocean Quahog: *Arctica islandica*

Offloading: to begin to remove, to remove, to pass over the rail, or otherwise take away fish from any vessel.

Oyster: *Crassostrea virginica*, *Oystrea edulis*

Peck: one fourth (1/4) of a bushel

Person: an individual, corporation, partnership, or other legal entity

Pollock: *Pollachius virens*

Possession: the exercise of dominion or control over the resource commencing at the time at which a decision is made not to return the resource to the immediate vicinity from which it was taken. Such a decision must be made at the first practical opportunity.

Quart: one thirty-second (1/32) of a bushel

Resident:

- (a) For purposes of this ordinance and all licenses, permits and regulations issued by the Town of New Shoreham, a resident is defined as one who resides full time in the town of New Shoreham.
- (b) Full-time Block Island residency status is not affected by absence due to enrollment at an educational institution or fulfilling a military obligation providing that the resident is also a registered Block Island voter.
- (c) Full-time Block Island residency status is not affected by absence, whatever the reason, of up to three (3) months in any calendar year providing that the resident is also a registered Block Island voter.
- (d) The Council for the Town of New Shoreham may, for cause shown, waive the full time residency requirements for such reasons, including but not limited to family obligations, illness or unusual work circumstances upon appeal within thirty (30) days from a decision of any board, commission or licensing authority.

Rock Crab: *Cancer irroratus*

Scup: *Stenotomus chrysops*

Sea Scallops: *Placopecten magellanicus*

Seines: any net used to catch fish by encirclement or herding including haul seines, beach seines, and purse seines; haul seines may not exceed six hundred (600) feet in length.

Soft-shelled Clam: *Mya arenaria*

Striped Bass: *Morone saxatilis*

Surf Clam or Sea Clam: *Spisula solidissima*

Take or Taking: the process and each of the activities in that process undertaken to remove the resource from its natural habitat until at which time possession begins.

Tautog: *Tautoga onitis*

Tongs: any shellfishing implement constructed with heads attached to stales (handles) and pinned at a pivot point to allow the opening and closing of the basket mouth formed by the two.

Transfer: to convey, pass, or remove something from one person, place, and/or vessel to another.

Trawl devices: any type of fishing apparatus drawn behind a vessel which consists of otter doors and /or ground cables, ropes, and/or netting – this will apply to, but not limited to beam trawls, otter trawls, Scottish trawls, and pair trawls.

Trip limit (Possession limit): the maximum quantity of marine products/species that may be possessed by a vessel; vessels are only allowed one trip limit in possession.

Vessel: Every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Wet Storage: The temporary storage, by a dealer, of shellfish from areas in approved classification or in open status of the conditionally approved classification, in containers or floats in natural bodies of water or tanks containing natural or synthetic seawater. Wet storage shall be practiced only by a licensed shellfish dealer in strict compliance with the provisions in the written approval for wet storage given by the RIDOH (R.I. Department of Health).

Winter Flounder: *Pseudopleuronectes americanus*, (Common names; black flounder flatfish)

Witch Flounder (Gray Sole): *Glyptocephalus cynoglossus*

Yellowtail Flounder: *Limanda ferruginea*

(Rev.Ords. 1967, Ch. 11 2; Ord. of 6-5-89(2), 2)

Cross Reference – definitions and rules of construction generally, 1-2.

Sec. 9-137 (Repealed)

Sec. 9-138 Shellfish Commission

(a) There is hereby established a shellfish commission to assist the Town Council in accomplishing the purposes of this division. The commission shall consist of no less than

five (5) nor more than nine (9) members representative of all persons interested in shellfishing to be appointed by the Town Council. The members shall be appointed during the month of December for a term of three (3) years. Any member may be reappointed for additional terms. In the event of the death, resignation or removal of a member, a successor shall be appointed to serve the remainder of the member's unexpired term.

- (b) The commission shall organize annually in the month of January by electing a chairman, a vice-chairman and a secretary. The secretary need not be a member of the commission. The commission may adopt bylaws subject to approval of the Town Council.
- (c) The commission shall perform all such functions as may from time to time be referred or delegated to it by the Town Council. The commission may recommend a fee(s) for shellfish licenses to be acted upon by the Town Council.

(Rev. Ords. 1967, Ch. 111; Ord. of 6-5-89 (2) 2)

Sec. 9-139. Taking prohibited without license. No person fourteen (14) years of age or older shall take any shellfish from the Great Salt Pond in the town by any method whatsoever without first having obtained a shellfish license from the agency(s) or person(s) designated as empowered by the Town Council to issue such licenses. Shellfish taken by persons under fourteen (14) years of age cannot be offered for sale or trade.

(Rev. Ords. 1967, Ch 113; Ord. of 6-5-89(2) 3)

Sec. 9-140. Shellfish Licenses. The Shellfish Commission, the Town Clerk, the Harbors Dept., N.S.P.D. and such other persons as may be designated by the Town Council are empowered and authorized to issue shellfish licenses, as follows:

- (1) *Commercial.* An applicant for a commercial shellfish license, or a renewal thereof, shall have maintained a principle residence within the town continuously for no less than twelve (12) consecutive months prior to the date of application or renewal. The annual fee for this licens is on file in the Town Clerk's office. Applicants must hold a valid Rhode Island commercial shellfish license with an appropriate shellfish endorsement, or multi-purpose Commercial license. Applications shall be made to the shellfish commission who will then recommend action to the Town Council together with proof of residence. The maximum number of Block Island commercial shellfish licenses to be sold in a given year (January 1 through December 31) shall not exceed twenty (20) and no more than one (1) Block Island non- resident commercial shellfish license shall be issued. All said licenses are nontransferable. Commercial licenses shall be for a period of one (1) year; January 1 through December 31. Any existing license not renewed by the Town Council prior to January 1, of each year; and not issued by the Town Clerk in exchange for receipt of the required fee prior to February 1 of each year shall be forfeit
- (2) *Taxpayer and/or resident.* An applicant for a taxpayer and/or resident shellfish license, or renewal thereof, shall be a person who is a real estate taxpayer and/or resident. Taxpayer and/or resident licenses shall be for a period of one (1) year; June 1 through May 31 of each year. The fee for this license is on file in the town clerk's office. Shellfish taken under this license cannot be offered for sale or trade.
- (3) The combined total sale of the weekly, monthly and seasonal (this does not apply to New Shoreham Residents) Shellfish Licenses shall not exceed the cap set forth by the Town Council. The cap is based on the recommendation of the Shellfish Commission. The cap will be kept on file in the Harbor Master's Office.

- (4) *Seasonal (summer)*. Any person may obtain a seasonal license valid during the period June 14 through October 15 of each year. The fee for this license is on file in the town clerk's office. This license is offered on a weekly, monthly and seasonal basis. Shellfish taken under this license cannot be offered for sale or trade.
- (5) *Golden license*. Any person sixty five (65) years of age or older may obtain a golden shellfish license. The license fee is one (1) dollar and must be renewed annually. Shellfish taken under this license cannot be offered for sale or trade.
- (6) The Block Island Shellfish Commission shall recommend to the Town Council the maximum number of licenses to be issued.
- (7) *Golden Commercial License*. The Town Council may, at its will, issue this license to any person sixty-five (65) years of age or over. This person must meet all requirements as described in Sec 9-140.(1)., Shellfish Licenses.

Rev. Ords. 1967, Ch 11, 4 (1)-(5); Ord. of 6-5-89 (2), 4 (1)-(5)
Cross reference – Licenses and business regulations, Ch.8.

Sec. 9-141. Form of license; exhibition; restrictions.

- (a) A license is required at age fourteen (14). Photo ID is required at age sixteen (16) or older when applying for and accepting a shellfish license. The licenses shall be in such form and style as the Town Council may prescribe. It shall be kept on the person of the licensee at all times as the licensee shall be engaged in shellfishing, transporting shellfish or any activity concerned therewith. It shall be exhibited upon request to any officer of the town. No person shall dig, catch or take any shellfish from the areas of the Great Salt Pond except during the hours between sunrise and sunset.
- (b) All persons applying for and accepting a shellfish license agree and the acceptance of such license shall constitute such agreement that he or she shall at any time or place when requested by a shellfish warden, Harbor's Department employee or police officer of the Town, permit the officer to inspect any pail, bucket, box, crate, boat or any other vessel, receptacle or container suitable for containing shellfish belonging to him or her or under his or her control, and shall permit the officer to board any vessel or enter any vehicle or building under his or her control for such purposes as inspection. Any person refusing to permit such inspection shall immediately forfeit and surrender his or her shellfish license to the officer and shall not be entitled to a license for the remainder of the year.

Sec. 9-142. Quantities and restrictions.

- (a) The following are the daily possession limits for each category as long as the waters are certified by the DEM for the direct harvest of shellfish.
 - (1) From sunrise of the third Monday in September through sunrise of the last Saturday in June.

<i>Quantity limits</i>	<i>Commercial</i>	<i>Taxpayer/Resident</i>	<i>Seasonal</i>
Oysters (in season)	8 quarts	8 quarts	NONE
Soft-shell clams	1 bushel	8 quarts	8 quarts
Quahogs	4 bushels	8 quarts	8 quarts
Sea Clams (skimmers)	4 bushels	8 quarts	8 quarts
Mussels	8 quarts	8 quarts	8 quarts
Scallops (in season)	2 bushels	2 bushels	NONE

(2) From sunrise of the last Saturday in June through sunrise of the third Monday in September the following quantity limits for each license category, but under no circumstances can any person take more than two bushels of shellfish in any one day of the season.

<i>Quantity limits</i>	<i>Commercial</i>	<i>Taxpayer/Resident</i>	<i>Seasonal</i>
Oysters (in season)	NONE	NONE	NONE
Soft-shell clams	4 quarts	4 quarts	4 quarts
Quahogs	2 bushels	4 quarts	4 quarts
Sea clams (skimmers)	2 bushels	4 quarts	4 quarts
Mussels	4 quarts	4 quarts	4 quarts
Scallops (in season)	NONE	NONE	NONE

- (b) No persons shall take and/or possess any oysters and scallops from the Great Salt Pond between the first day of June and the first Saturday in November except as allowed by the Town/CRMC in permit sites in open waters.
- (c) No persons having a noncommercial license shall take more than eight (8) quarts in total of the various shellfish listed in (a) above. No commercial licensee shall take more than four (4) bushels in total of the quantities set out in (a) above in any one (1) day. No person shall take, retain in his possession or offer for sale any hard shell clams with less than a one (1) inch hinge width, or soft shell clam or mussel less than two (2) inches at the longest dimension and oysters no less than three (3) inches at the longest dimension.
- (d) Any persons taking more than the prescribed quantity within one (1) day or taking or having in his or her possession shellfish under the minimum size shall, in addition to the fines set out in Section 9-147, be fined upon conviction no less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for each quart or part thereof exceeding the prescribed quantity or be imprisoned for not more than ten (10) days.
- (e) Wet storage shall be prohibited except by a licensed shellfish dealer in strict compliance with provisions as written and approved by RI Department of Health (RIDOH). No other type of wet storage is permitted.

(Rev. Ords. 1967, Ch. 11,5; Ord. of 6-5-89(2),5)

Sec. 9-143. Method and time of taking.

- (a) Shellfish may only be taken during daylight hours from sunrise to sunset. No person shall take or possess any shellfish from the areas of the Great Salt Pond by any method more destructive to the beds than by hand, oyster tongs, clam forks or rakes, or dip nets. Taking shellfish by dredge rakes or other apparatus operated by mechanical power/sail or hauled by boats is prohibited. Shellfishing by scuba: no person making use of scuba diving equipment or underwater breathing apparatus shall take shellfish from the Great Salt Pond.
- (b) Tongs: No person shall take shellfish or attempt to take shellfish with or have in his possession while in the Great Salt Pond, any tongs constructed with teeth less than one (1) inch apart on the bar or having heads constructed with wires, rods, crossbars, or reinforcement that will form a rectangle smaller than one (1) inch by two and one half (2 ½) inches.
- (c) Bullrakes: No person shall take shellfish, or attempt to take shellfish, or have in his

possession, any bullrake, the teeth or tines and basket construction of which are closer than one (1) inch apart or having crossbars or reinforcement that will form a rectangle smaller than one inch by two and one half inches (1''x 2 1/2''). A tolerance of one sixteenth (1/16) of an inch less than the allowable limit will be permitted as a variance in construction. For the purpose of this regulation, a bullrake shall be defined as any curved metal instrument or basket with four (4) or more metal tines (teeth) which is primarily used to harvest quahogs.

(Rev. ords. 1967, Ch. 11, 6; Ord. of 6-5-89 (2), 6)

Sec. 9-144 Finfish. At all times the taking of finfish in the Great Salt Pond is prohibited except by hand line or rod and reel or licensed minnow/eel trap or spear. From March first and May fifteenth of any calendar year, the taking of blackback or winter flounder by any means is prohibited anywhere in New Harbor (Great Salt Pond) inside a line from Block Island Coast Guard Dock extending northwest across the channel to Beane's Point and encompassing all of the Great Salt Pond. The size of the fish will be dictated by state law. The size and possession limits of all marine finfish species implemented by the Rhode Island Department of Environmental Management (DEM) shall be in effect within the Great Salt Pond. Except when fishing as a licensed commercial vessel, each person fishing from a vessel licensed by the United States Coast Guard to carry passengers for hire and while the vessel is carrying passengers for hire may not possess more than the daily allowed limit of the finfish species possessed set by the DEM for the species. Compliance aboard vessels will be determined by dividing the number of fish on board a vessel by the number of recreational fishermen on board said vessel. Said fish shall not be offered for sale.

(Rev. Ords. 1967, Ch. 11, 8; Ord. of 6-5-89(2), 7)

Sec. 9-145. Temporary prohibitions by Council

(a) The Town Council may at any time and from time to time by special order, suspend and prohibit the taking of any one (1) or several types or species of shellfish or finfish for the purpose of conservation and protection of the specified species and to protect the public health. Such order may be made by the Council without notice, provided that public notice thereafter shall be made in an appropriate manner. Persons taking or possessing shellfish and/or finfish in violation of this prohibition shall be punished as specified in section 9-147.

(b) The Town Council may at any time, from time to time by special order, upon recommendation from the Shellfish Commission, increase or decrease the quantity or size of the taking, of any one (1) or several types or species of shellfish or finfish based on local conditions.

Sec. 9-146. Enforcement. The provisions of this ordinance shall be enforceable by all, the Town of New Shoreham's harbormaster, assistant/seasonal harbormaster(s), shellfish warden(s), assistant/seasonal shellfish warden(s) and the New Shoreham Police Department officers, any other person duly appointed and sworn by the Town Council for such purpose. Any one (1) of such duly appointed and sworn officers may in view of the commission of any offense against the provisions of this ordinance arrest the offender without warrant and detain him for prosecution not exceeding twenty-four (24) hours.

(Rev. Ords. 1967, Ch. 11, 10; Ord. of 6-5-89 (2), 10)

Sec. 9-147. Penalty for violation. Any person violating any provisions of this division ~~shall be~~ *may be* fined up to two hundred (\$200.00) and imprisoned for up to three (3) months for any one offense.

(Rev. Ords. 1967, Ch. 11, 9: Ord. of 6-5-89 (2), 9)

State law reference-authority for town meeting to exact regulations on fishing in Great Salt Pond in New Shoreham, penalty, G.L. 1956, 20-3-7.

Sec. 9-148. Prohibiting digging in closed areas.

- (a) No person(s) shall dig, rake or otherwise take shellfish from any area(s) of the Town of New Shoreham waters that have been closed by the Town of New Shoreham or any State or Federal agency.
 - (b) Storing or hanging shellfish in any containment system is prohibited in closed waters of the Town of New Shoreham.
 - (c) Possession and/or use of shellfish gear in a closed area is prohibited. While transiting a closed area, all shellfish gear must be properly stowed.
 - (d) Any person violating any provision of this section may be fined up to two hundred dollars (\$200.00) and/or imprisoned for up to three (3) months for each offense.
 - (e) The Shellfish Warden, Harbormaster, Assistant Harbormaster(s) or other duly appointed town official(s), can turn any closed area shellfish violation over to the Rhode Island Department of Environmental Management conservation officers at his/her discretion.
- (d) Fees and fines are on file in the Town Hall.

Proposed Amendments Posted:	February 11, 2011
Public Hearing:	March 7, 2011
Adopted:	March 7, 2011
Amended Ordinance Posted:	March 10, 2011 – March 20, 2011
Effective:	March 14, 2011

Town Clerk Fiona Fitzpatrick