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**CHAPTER 108
SHELLFISH**

- § 108-1. Title.
- § 108-2. Definitions.
- § 108-3. Taking of shellfish restricted.
- § 108-4. Permit required; exception.
- § 108-5. Regulations.
- § 108-6. Regulations pertaining to specific shellfish.
- § 108-7. Marine Reserve Zones.
- § 108-8. Town Board authority regarding limits.
- § 108-9. Penalties for offenses.

[HISTORY: Adopted by the Town Board of the Town of Shelter Island 9-21-2001 by L.L. No. 13-2001, also repealing former Chapter 108 adopted 7-10-1964, as amended. Amendments noted where applicable.]

GENERAL REFERENCES
Waterways - See Chapter 128.

- § 108-1. Title.
This Chapter shall be known as the "Shellfish Ordinance of the Town of Shelter Island."

§ 108-2. Definitions.

[Amended by Local Law No. 15 – 2023]

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

CHURNING — The agitation and/or displacement of Town lands with a propeller for the purpose of taking soft clams and razor clams.

SHELLFISH DIGGER RESIDENT PERMIT - A permit issued by the NYSDEC to allow the commercial taking of shellfish.

NYSDEC - The New York State Department of Environmental Conservation.

PECK - One quarter of a bushel; two gallons.

DOMICILE-The place you intend to have as your permanent home, where your permanent home is located, and the place you intend to return to after being away (as on vacation, business assignments, educational leave, or military assignment).

RESIDENT - A person who, during the period of not less than 12 months immediately preceding his or her application for a permit hereunder, has had a principal place of abode and domicile in and shall have actually and continuously resided within the Town of Shelter Island for said twelve-month period.

SHELLFISH - For purposes of this chapter, "shellfish" shall include blue crabs, crabs, scallops, hard clams, lobsters, mussels of all kinds, oysters, periwinkles, razor clams, shrimp, whelks, conchs and soft clams.

TAXPAYER - A person who owns real property as shown on the assessment rolls of the Town of Shelter Island but is not a resident as defined herein.

TOWN LANDS - All waters and lands under tidewater in any harbor, bay, lake or creek, title to which land is vested in the Town of Shelter Island, and the right of fishing which is vested in the Town of Shelter Island.

§ 108-3. Taking of shellfish restricted.

No person shall take any shellfish from Town lands except in accordance with the provisions of this Chapter.

§ 108-4. Persons allowed to take shellfish; permit required; fees.

[Amended by Local Law No. 15 – 2023]

A. No person shall take shellfish unless such person:

- (1) Is a resident or taxpayer 12 years or over;
- (2) Has obtained a permit as prescribed in this Section; and
- (3) Has obtained all necessary permits for such activities.

B. Notwithstanding the above, a child or guest of any permittee may take shellfish without a permit, provided that he or she is accompanied by the permittee for all purposes hereunder, and the child or guest and permittee together shall be deemed one permittee for the purposes of this chapter.

C. Types of permits; fees.

(1) There shall be two types of annual permits:

(a) A recreational permit shall entitle the holder thereof to take shellfish for the sole use of the individual permit holder and their family.

(b) A commercial permit shall entitle the holder to take shellfish for use by others.

(2) Each of the two types created hereby shall be valid for the period commencing January 1 and ending December 31 of the following year, or as otherwise provided herein.

(3) The Town Board may, by resolution, set and from time to time adjust the fee to be paid for each type of permit.

(4) One permit. No person shall hold both a commercial and recreational permit at any one time.

D. Application; information required; Shellfish Review Board.

(1) An application for a recreational or commercial permit shall be submitted to the Town Clerk, in writing, and shall include but not be limited to:

(a) The applicant's name.

(b) The applicant's residence address with street and number,

(c) The applicant's age, sex, height and color of eyes and hair.

(d) For recreational permits, the applicant's domicile address outside of the Town of Shelter Island with street and number, if any. For commercial permits, the applicant's domicile shall be shown to be within the Town of Shelter Island.

(e) A description of applicant's real property owned in the Town of Shelter Island with street number, if any, and with Tax Map number.

(2) Each applicant for a recreational permit shall submit to the Town Clerk for inspection one of the following:

(a) A valid New York State driver's license or vehicle registration in the name of the applicant, setting forth an address located within the boundaries of the Town of Shelter Island;

(b) A validated tax receipt stub for the current year for any taxable property located within the boundaries of the Town of Shelter Island. If the subject property is owned by an LLC or the like, a duly authorized individual person of the entity must be identified as an applicant, subject to confirmation by the Town Attorney;

(c) A valid voter registration card indicating place of residence as being within the boundaries of the Town of Shelter Island; or

(d) A copy of a lease of property within the Town of Shelter Island, the term of which shall be a minimum of one year. Said recreational permit shall expire with the expiration of the lease or March 31, whichever is earlier.

(e) In the case of an applicant for a recreational permit who is unable to produce items (a), (b), (c), or (d) above, the applicant may appeal to the Shellfish Permit Review Board to provide evidence that they are indeed a resident or taxpayer, including being identified as such by a bona fide resident known to the Board.

The name of the resident identifying the applicant shall be noted on the application.

(3) Each applicant for a commercial permit shall submit to the Town Clerk for inspection all of the following:

(a) A valid New York State driver's license, vehicle registration in the name of the applicant or a valid New York non-driver's identification card, setting forth an address located within the boundaries of the Town of Shelter Island;

(b) A validated tax receipt stub for the current year for any taxable property located within the boundaries of the Town of Shelter Island or a copy of a lease of property within Shelter Island Town, the term of which shall be a minimum of one year. Said commercial permit shall expire with the expiration of the lease or March 31, whichever is earlier. If the subject property is owned by an LLC or the like, a duly authorized individual person of the entity must be identified as an applicant, subject to confirmation by the Town Attorney;

(c) A valid voter registration card indicating applicant's place of residence as being within the boundaries of the Town of Shelter Island or an affidavit by applicant that he or she is a registered voter but does not possess a voter registration card, or is not a registered voter in any jurisdiction and that he or she is a resident of the Town of Shelter Island; and

(d) A valid Resident New York State Shellfish Digger's Resident Permit.

(e) In the case of an applicant for a commercial permit who is unable to produce items (a), (b), (c) and/or (d) above, the Town Clerk shall refer the applicant to the Shellfish Permit Review Board which shall provide the applicant and residents of

the Town of Shelter Island with the opportunity to present evidence regarding applicant's residence and New York State permit status.

E. Form of permit; nontransferability; evidence of permit.

(1) Permits shall be on the form prescribed by the Town Clerk and contain the matters set forth in Subsection (D) above. The original application shall be filed in the Town Clerk's office and the permit shall be issued by the Shelter Island Town Clerk.

(2) Permits shall be nontransferable.

(3) Any person engaged in taking shellfish from Town lands under water shall locate his permit so that they shall be immediately available to any enforcing officer. Failure to do so shall be presumptive evidence that such person does not possess a shellfish permit.

(4) Every commercial permittee shall by April 30th submit an annual harvest report to the Shellfish Permit Review Board.

F. Shellfish Permit Review Board. The Shellfish Permit Review Board shall consist of the Town Attorney, a Harbormaster, and a resident shell fisherman to be appointed by the Town Board. The Shellfish Permit Review Board shall determine qualifications pursuant to §108-4(D)(2) (e) and Section §108-4(D)(3); determine whether revocation is required pursuant to §108-4(H); and provide an annual update to the Town Board on the state of the Shelter Island Bays.

G. Expiration. All permits shall expire on the date indicated on the permit unless sooner revoked in accordance with subsection H.

H. Revocation. All permits issued pursuant to this Chapter shall become null and void if the holder thereof ceases to be a resident or taxpayer of the Town of Shelter Island or it is revoked by the Shellfish Permit Review Board, after notice and a public hearing, upon a conviction of a violation of this Chapter.

§ 108-5. Regulations.

[Amended by Local Law No. 15 – 2023]

A. No person shall take shellfish from Town lands between sunset and sunrise other than whelks, conchs and crabs.

B. No person shall take any shellfish from any Town lands which may have been restricted for any purpose whatsoever by the Town Board, provided that such restricted Town lands shall have been properly designated by resolution duly passed by the Town Board, and shall have been properly marked and/or posted.

C. All persons are prohibited from taking shellfish from Town lands by the use of churning, or by the use of dredges propelled or operated in any manner other than by hand power, except that scallops may be taken from Town lands by the use of dredges not more

than 36 inches in width, operated and hoisted by hand and towed by boats propelled in any manner. [Amended 1-10-2003 by L.L. No. 1-2003]

D. A person with a recreational permit shall not take any more than a half bushel of any type of shellfish from Town lands in any one calendar day, except such person may take no more than 100 hard clams daily, nor more than 24 whelks or conchs daily.

§ 108-6. Regulations pertaining to specific shellfish.
[Amended by Local Law No. 15 – 2023]

A. Hard clams.

1. It shall be unlawful for any person or persons to take from Town lands any hard clams less than one inch in thickness at any time except for propagation purposes in Town lands, and this may only be done after a permit has been granted by the Town Board.

2. A person with a Commercial Shellfish Permit may take up to a total of five bushels of hard clams from Town lands in any one calendar day.

B. Soft clams and razor clams.

1. It shall be unlawful for any person or persons to take from Town lands any soft clams (so-called) less than two inches long or any razor clams less than four inches long, nor shall it be lawful for such clams to be possessed at any time. Any such clams shall be immediately returned to the lands at the place where taken.

2. A person with a Commercial Shellfish Permit may take up to a total of five bushels of soft clams and razor clams from Town lands in any one calendar day.

C. Crabs.

1. It shall be unlawful to take from Town lands any hard-shell blue-claw crabs less than five inches point to point or soft-shell crabs less than three inches point to point, and it shall be unlawful to take sponge (egg-bearing) crabs from Town lands at any time.

2. The use of lights when taking crabs is permitted.

D. Oysters.

1. It shall be unlawful for any person or persons to take any seed oysters from Town lands without permission of the Town Board after written request. Seed oysters are oysters less than three inches in length.

2. A person with a Commercial Shellfish Permit may take up to a total of one peck of oysters in the shell from Town lands in any one calendar day.

E. Scallops.

1. Scallops may be taken from Town lands from the Monday a week after the DEC season opening date to the 31st day of March, inclusive, in each and every year. [Amended 11-13-2015 by L.L. No. 11-2015]

2. It shall be unlawful for any person or persons to take from Town lands scallops which do not show the annual growth ring and have a 2 ¼ inch measurement from hinge to bill, nor shall it be lawful for such scallops to be possessed at any time. Any scallops not showing the annual growth ring taken from Town lands shall be immediately returned to the lands at the place where taken.

3. A person with an Commercial Shellfish Permit may take up to a total of five United States bushels of scallops in the shell from Town lands in any one calendar day. If there are two or more licensed persons with Commercial Shellfish Permit in any one boat taking scallops, not more than 10 United States bushels of scallops in the shell shall be taken by any one boat during any one calendar day, regardless of the number of persons therein. [Amended 11-13-2015 by L.L. No. 11-2015]

F. Conch and whelks. It shall be unlawful for any person to take from Town lands conchs or whelks that are less than 5 ½ inch in shell length or 2 ¼ inch shell height . Any conch or whelk not meeting said dimensional requirements shall be returned alive from the place taken.

§ 108-7. Marine Reserve Zones.

A. In an effort to increase the amount of shellfish in Shelter Island waters, Marine Reserve Zones which will be closed to harvesting hard clams are hereby created and described as follows:

1. Pt. Foxen Creek in Coecles Harbor
Coordinates: 041° 04.0280' N, 072° 18.8740' W
Area: approximately 100' x 100'
2. Head of Harbor in Coecles Harbor
Coordinates: 041° 05.1060' N, 072° 19.321' W
Area: approximately 100' x 100'
3. Menantic Creek
Coordinates: 041° 03.5480' N, 072° 20.5980' W
Area: Approximately 10,000 square feet.
4. Harbor View Acres Cove
Coordinates: from 41.06275 x 72.367 to 41.062333 x
41.062333 x 72.366516 to 41.062633 x 72.366566
[Added 10-28-2005 by L.L. No. 8-2005, effective 11-2-2005]
5. West Neck Creek
Coordinates: 41.05167° N x 72.35345° W to 41.05190° N x 72.35328° W
to 41.05170° N x 72.35273° W to 41.05148° N x 72.35287° W.
Approximately 170' x 91'.
[Added 10-24-2008 by L.L. No. 10-2008, effective 10-29-2008]

B. The Marine Reserve Zones shall be marked with buoys and a sign which demarcates the boundaries and explains the no hard clamming policy.

C. It shall be unlawful for any person or persons to take any hard clams from any Town lands which are designated as Marine Reserve Zones.

§ 108-8. Town Board authority regarding limits.

The Town Board reserves the right to change the amount of shellfish permitted to be taken from Town lands by resolution.

§ 108-9. Penalties for offenses.

An offense against the provisions of this chapter shall constitute a violation under the Penal Law of the State of New York and shall be punishable by a fine of not more than \$1,500.00 or by imprisonment for not more than 15 days, or both.