

TOWN OF CHILMARK

REGULATIONS AS TO THE TAKING OF SHELLFISH

1. A Chilmark Shellfish License is required to take Bay Scallops, Oysters, Quahogs (Hard-Shell Clams), Steamers (Soft-Shell Clams), Razor Clams, Mussels or Eels from the waters of Chilmark.
2. Any person who takes shellfish from the waters of Chilmark without a Chilmark Shellfish license, or any person who does so after his/her license has been revoked, or suspended and before it is reinstated, shall be punished by a fine of not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars or by imprisonment for not more than three months, or both as is provided in Massachusetts General Laws Chapter 130, Section 2 as amended.
3. The penalty for a violation of these rules and regulations, except as stated above in section two (2) or elsewhere in these regulations, shall be:
 - First offense, suspension of the shellfish license for five (5) fishing days and/or not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars.
 - Second offense, suspension of the shellfish license for fifteen (15) fishing days and/or a fine of not less than ten (\$10.00) dollars and/or not more than fifty (\$50.00) dollars.
 - Third offense, revocation of shellfish license for one calendar year.
4. Shellfish licenses shall be valid from April 1 through March 31 or any part thereof, except for:
 - One (1) week non-resident family shellfish license which shall be valid for not more than seven (7) calendar days.

All licensees must comply with these regulations and Massachusetts General Laws, Chapter 130.

5. Types of shellfish licenses that may be issued (All license fees are non-refundable):
 - a) **A COMMERCIAL SHELLFISH LICENSE** may be issued to any permanent resident of Chilmark. No commercial shellfish permit may be granted to any person who has not resided in town for at least six (6) months preceding his/her application for a permit. The burden of proof shall be on the applicant. The applicant shall have three forms of proof. Some examples of proof of residency are: rent receipts, tax bill receipts, voter registration card, census list representation, and/or any other proof deemed acceptable by the Shellfish Committee. The applicant shall also possess a valid Massachusetts Commercial Shellfish License. The fee for commercial shellfish licenses shall be:
 - 1) **All Species**-(Bay Scallop, Quahog, Oyster, Soft-Shell Clam, Mussels and Eel)
One hundred and fifty (\$150.00) dollars.
 - 2) **Quahog/Mussels**-Fifty (\$50.00) dollars.
 - 3) **Bay Scallop**-Seventy-five (\$75.00) dollars.

- 4) **Soft-Shell Clam**-Fifty (\$50.00) dollars.
 - 5) **Oyster**-Seventy-five (\$75.00) dollars.
 - 6) **Eel**-Fifteen (\$15.00) dollars.
- b) **A FAMILY SHELLFISH LICENSE** shall be valid for a family comprised of not more than licensee, spouse and children under eighteen (18) years of age. *A Family permit holder is not allowed to sell their take, it is meant for consumption.*

i) **A RESIDENT FAMILY SHELLFISH LICENSE** may be issued to the owner of real estate or a dwelling house in the Town of Chilmark. A resident family permit may be issued to any permanent resident of the Town of Chilmark. Burden of proof of residency shall be on the applicant. The fee for a resident family shellfish license shall be twenty five (\$25.00) dollars. The fee shall be waived for any resident senior citizen who has attained a minimum of seventy (70) years of age.

ii) **A NON-RESIDENT FAMILY SHELLFISH LICENSE** may be issued to any person. The fee for a non-resident family shellfish license shall be fifty (\$50.00) dollars. There shall be no fees waived. The fee for any non-resident senior citizen who has attained a minimum of seventy (70) years of age shall be twenty five (\$25.00) dollars. There shall be no fees waived

iii) **A ONE (1) WEEK NON-RESIDENT FAMILY SHELLFISH LICENSE** may be issued to any person, from May 1 through September 30. Each license shall be valid for a maximum of seven (7) days and no one (1) week non-resident shellfish license shall be valid after September 30. The issuance of the license allows the licensee to take up to one weekly limit of shellfish. The fee shall be twenty five (\$25.00) dollars. There shall be no fee waived.

6. The waters of Chilmark are open for family shellfishing Monday through Sunday from 7:00 a.m. to sunset or 7:00 p.m., whichever is earlier.
7. A family shellfish licensee shall not fish more than once a week for any species of shellfish. A family shellfish licensee shall not take more than one quarter (1/4) bushel or (1) peck of any and all species of shellfish during said week, except the scallop and oyster limit shall be no more than one half (1/2) bushel or two (2) pecks per week, in season.
8. A shellfish licensee may be allowed to dig one (1) additional family shellfish limit per week for another family licensee who is mentally and/or physically handicapped and/or suffering from an illness and/or is a senior citizen. A letter from the person for whom the shellfish will be collected must be submitted, at least annually, to the Shellfish Committee for approval/disapproval. The committee will then advise the Shellfish Constable, in writing, of the authorization. All shellfish for this permit shall be turned over to the absentee licensee for their consumption. Either or both permits may be revoked for a period of up to three hundred sixty five (365) days for just cause.

9. The licensee must have their valid shellfish license on their person while shellfishing, and must present said license to the Shellfish Constable or Deputy Shellfish Constable when directed to do so. The Shellfish Constable or Deputy Shellfish Constable may also require a photo identification to be presented.
10. No license for the taking of shellfish shall be granted to a minor under the age of sixteen (16). Any person holder of a commercial permit under the age of eighteen (18) years of age shall not fish during public school hours.
11.
 - a) All shellfish taken at Menemsha or Nashaquitsa Ponds shall be landed near the Quitsa Bridge, Menemsha Texaco or at a location designated by the Town Shellfish Constable or Deputy Shellfish Constable. All shellfish must be checked by the Shellfish Constable or Deputy Shellfish Constable before they are unloaded.
 - b) All shellfish taken from any other waters of the Town must also be checked in and landed at a location designated by the Town Shellfish Constable or Deputy Shellfish Constable.
12. Transferring shellfish from one shellfish license to another is prohibited.
13. A bushel container must be a plastic “legal limit” bushel box. No other container used to hold a bushel of shellfish shall be allowed. These containers must be in good shape and not cracked, spread, stretched or any method used to increase their capacity. No artificial means shall be used to hold scallops on the baskets or boxes.
14. It shall be unlawful to return any and all shellfish predators, such as starfish, whelks, crabs, etc. to the water.
15. Any person engaged or having engaged in shellfishing must immediately stop for and display all shellfish in their possession when directed to do so by the Shellfish Constable or a Deputy Shellfish Constable.
16. All shellfish shall be measured before they are brought ashore and all seed shall be placed in deep water.
17. A boat may only fish family shellfish licenses OR commercial shellfish licenses in any calendar day except under section 31 of these regulations. A boat may make only one (1) commercial trip per species per calendar day, Monday through Friday or on Saturday if the day qualifies under section 24 of these regulations.
18.
 - a) No more than three (3) commercial shellfish licensees are allowed in a boat for commercial use. There shall be no more than three (3) commercial shellfish limits landed per boat per day.

- c) A maximum of three (3) family shellfish licensees are permitted in a boat for family shellfishing.
- d) When a commercial shellfishing boat comes ashore it is done (finished) for the day, except if there is an equipment failure that requires coming ashore. (also see exception in 19-e)
- e) Once a boat has begun to fish commercially it is prohibited from bringing aboard another commercial licensee at any time during that day, except upon prior agreement of the Shellfish Constable or Deputy Shellfish Constable on duty setting a time and location that the second licensee will be coming aboard, so the on duty Shellfish Constable or Deputy Shellfish Constable may verify that a single limit has not been exceeded.

20. There shall be no shellfishing within the Town's jurisdiction on Thanksgiving and Christmas.

21. The Shellfish Constable may close any area for the reason of protecting seed.

SCUBA DIVING

22. a) No commercial diving for shellfish is allowed in Menemsha or Nashaquitsa Ponds unless specifically authorized by the Board of Selectmen.

b) Boats shall stay at least 100 feet from diver's flag.

c) Anyone harvesting shellfish by swimming, snorkeling or scuba diving shall have a diver's flag.

BAY SCALLOPS

23. The hours for taking scallops by commercial fishermen shall be between 7:00 a.m. and 4:00 p.m. except Saturday and Sunday when the ponds are closed to all commercial shellfishing (see exception in section 25). All commercial shellfishermen must check in with the Shellfish Constable no later than 4:10 p.m.

24. There shall be no dragging for scallops unless the air temperature reaches a minimum of thirty (30) degrees Fahrenheit, by no later than 10:00 a.m. on any calendar day.

25. If one or more days, Monday through Friday, fails to reach a minimum air temperature of thirty (30) degrees Fahrenheit by 10 a.m. then a commercial licensee may fish a commercial limit on Saturday of the same calendar week, if an air temperature of thirty (30) degrees Fahrenheit is reached by 10 a.m. There shall be no make-up day for any other method of catching scallops.

26. Scallop season opening/closing dates and limits, within the limits of Massachusetts General Law, Chapter 130, will be recommended by the Shellfish Committee and are contingent upon the approval of the Board of Selectmen.

27. a) No person shall take scallops other than adult scallops or offer for sale or have in his possession such scallops, unless licensed by the Massachusetts Division of Marine Fisheries to do so. Adult scallops shall be scallops with a well defined, raised annual growth line (annulus) at least ten (10) millimeters from the hinge of the shell and any scallop without such line shall be deemed a seed scallop.
- b) Exception. Bay Scallops that have a well-defined raised growth line located less than ten (10) millimeters from the hinge of the shell, shall be lawful to harvest and possess if the shell height is at least two and a half (2 ½) inches.
- c) The daily limit for the taking of scallops within the waters of Chilmark shall be set by the Chilmark Selectmen prior to opening the season annually or at any time during the season the Chilmark Selectmen may vote to change the daily limit.
28. a) No boats used for the taking of scallops shall exceed twenty-two (22) feet in length at the water line.
- b) The use of more than six (6) drags is prohibited.
- c) The use of a drag exceeding thirty-six (36) inches in width is prohibited.
- d) The use of lead rollers or lead weights on the drags is prohibited.
- e) The use of teeth on a drag is prohibited.
- f) The use of chain sweeps exceeding one half (½) inches in thickness is prohibited.
29. a) Loose scallops in boats are prohibited and shall be confiscated by the Shellfish Constable or Deputy Shellfish Constable.
- b) At the completion of a tow, the contents of the retrieved drag will be culled after being placed on the culling board to provide for minimal damage to the seed.
30. Dragging shall be prohibited from the following areas:
- a) The area which the Selectmen designate as the seed area.
- b) The area designated by the Selectmen as the area for family licensees to dip net only.
- c) The Shellfish Constable may designate an area each scallop season for dip netting only and dragging will be prohibited. The area will be marked by buoys set out by the Shellfish Department personnel.
31. Scallops that are washed ashore by storm conditions, within the boundaries of the Town of Chilmark, shall be harvested by the holder of a valid Chilmark Shellfish License only. No limit shall apply under these conditions at the discretion of the Shellfish Constable or Deputy Shellfish Constable on duty.
32. There shall be only Chilmark commercial shellfish licensees on a boat during commercial harvest except for the following conditions. Any person holding a residential family permit may be allowed to get his/her limit, for only one (1) calendar day of that week, aboard a boat fishing commercially if the Shellfish Constable or Deputy Shellfish Constable is notified prior to fishing.

OYSTER

33. Oyster season opening/closing dates and limits, within the limits of Massachusetts General Law, Chapter 130, will be recommended by the Shellfish Committee and are contingent upon the approval of the Board of Selectmen

34. The minimum size for oysters shall be three (3) inches longest shell measurement.

35. The maximum limit for recreational harvest shall be not more than one half (1/2) bushel per calendar week per shellfish license.

A1. There shall be no dragging for oysters unless the air temperature reaches a minimum of twenty-eight (28) degrees Fahrenheit, by no later than 10:00 a.m. on any calendar day.

A2. If one or more days, Monday through Friday, fails to reach a minimum air temperature of twenty-eight (28) degrees Fahrenheit by 10:00 a.m. Then a commercial licensee may fish a commercial limit on Saturday of the same calendar week, if an air temperature of twenty-eight (28) degrees Fahrenheit is reached by 10 a.m. There shall be no make-up day for any other method of catching oysters.

QUAHOGS

36. The commercial daily limit for the taking of quahogs within the waters of Chilmark shall be set by the Chilmark Selectmen prior to the opening the season annually or at any time during the season the Chilmark Selectmen may vote to change the limit.

37. It is unlawful to take any quahog that does not measure one (1) inch in thickness (hinge height). A gauge must be carried while quahoging.

38. The hours for commercial quahoging shall be from 7:00 a.m. - 4:00 p.m. from November 1st to March 31st, and from 7:00 a.m. to 5:00 p.m. from April 1st to October 31st, Monday through Friday.

39. Power dredging for quahogs is permitted only in coastal waters of the town outside the ponds, during the dates set by the Selectmen. The limit for taking quahogs by power dredge will be set by the Chilmark Selectmen.

SOFT SHELLED CLAMS

40. The minimum legal size shall be two (2) inches at the longest shell measurement. A two (2) inch ring must be carried while clamming.

41. The commercial limit shall be no more than two (2) bushel per day, Monday through Friday.

42. Commercial clamming shall be limited to the same hours as commercial quahoging.

43. Jetting of clams is prohibited unless approved by the Chilmark Shellfish Committee.

AQUACULTURE GRANTS/LEESES

44. Licenses will be granted by the Board of Selectmen for cultivation of indigenous shellfish species only: Soft-Shelled Clams, Hard-shelled Clams, Bay Scallops, American Oysters, Blue and Ribbed Mussels.
45. Licenses will be granted only to individuals who are permanent full time residents of Chilmark and are non-transferable.
46. Licenses will be granted for a period of one (1) year. At the end of each year the licensee may apply for renewal. Proof of the use of the license is required for renewal. The Shellfish Constable shall determine active use of the license.
47. The total licensed area in each pond or bay will be limited to ten percent (10%) of the acreage of that pond or bay.
48. Floating licenses may be granted in ponds and bays and in outside waters: one quarter (1/4) acre maximum in ponds and bays, twenty five (25) acre maximum in outside waters. Only one (1) such license will be granted to any one individual.
49. Bottom licenses will be granted for ponds and bays not more than one (1) acre. Only one (1) such license will be granted to any one individual.
50. Any bay scallops within a bottom licensed area belong to the public. Dip netting is the only method permitted for taking such scallops.
51. The Chilmark Board of Selectmen will set the annual fee for Aquaculture Licenses. The annual fee will be not less than five (\$5.00) dollars and not more than twenty five (\$25.00) dollars.
52. Any variation to this Aquaculture Policy shall first be approved by the Chilmark Board of Selectmen.
53. Upon approval of a license, the Applicant must submit a Business Plan to the Chilmark Board of Selectmen. The Board may, at its sole discretion, require that an escrow account be established by the applicant.
- A3. Each person holding an aquaculture permit shall submit a written report annually to the Selectmen. The aquaculture report is due no later than January 15th and shall contain the following information.
1. A copy of the annual propagation report submitted to the Division of Marine Fisheries from the previous year.
 2. Harvest data for the previous year (count).
 3. Approximate number of adult oysters currently on the grant.
 4. Approximate number of seed oysters currently on the grant.

5. Source and date of the seed purchased the previous year (shellfish hatchery). If seed is purchased from a private aquaculture farm a copy of the disease testing report must be submitted.
6. Number of grow out cages currently on grant site.
7. Brief description and approximate date of any high mortality events of seed or adults, growing conditions and/or any unusual organisms noticed over the previous year. Examples of unusual organisms are but not limited to: algal blooms, crabs, seaweed, sea squirts etc.

Failure to provide an annual aquaculture report to the Selectmen will result in non-renewal of the aquaculture permit.

A4. Each grant holder shall mark the four corners of grant site. Corners shall be clearly marked with the corresponding grant number and initials of the permit holder.

A5. Grant holders shall conduct aquaculture practices as designed in their original business plan or permit application. Any changes in gear type or methods may require preapproval from the Army Corps of Engineers, Division of Marine Fisheries, Conservation Commission and Selectmen.

A6. Grant holders are responsible for any gear that is derelict and or breaks free and washes ashore. Failure to recover gear within one (1) month upon notification to grantee will result in a Selectmen review and possible revocation of aquaculture permit.

A7. Any purchase of seed from a private grower shall have a disease test and must be documented within two weeks prior to said transfer. A written copy of the testing report must be made available to the Shellfish Constable upon request and submitted in the required annual report.

A8. No oysters shall be discarded at any of the aquaculture grant sites. Any undesirable (clusters or misshaped) oysters shall be transferred to Shellfish Constable to be placed in a family shellfishing area.

A9. Any aquaculture permit holders using the town's designated upweller off-site culling area shall keep such area free of aquaculture equipment and clean. No discarding of shellfish at this area is allowed.

A10. Any aquaculture permit holder is responsible for removal of gear or equipment if license is revoked. If gear is not removed within six (6) months after license is revoked the town will hire someone to remove gear and equipment. All costs associated with this gear removal shall be the responsibility of the grant holder.

MUSSELS

54. The daily limit for the taking of mussels within the waters of Chilmark shall be set by the Chilmark Selectmen prior to opening the season annually or at any time during the season the Chilmark Selectmen may vote to change the limit.

55. The hours for commercial Musseling shall be from 7:00 a.m. - 4:00 p.m. (Monday through Friday) year round.