

# TOWN OF MASHPEE

## SHELLFISH REGULATIONS

### CHAPTER 145 – SHELLFISH

History: Adopted by the Town of Mashpee as Ch. 4, Article 4.9, of the 1980 Code. Amendments noted where applicable.

#### **§145-1 Promulgation of Shellfishing and Eeling Regulations; Violations and Penalties**

The Board of Selectmen are authorized, from time to time, to make regulations governing the taking of shellfish and eels from the foreshores, flats and tidal waters of the Town of Mashpee. No such regulations shall become effective until a public hearing has been held by the Board of Selectmen and a public notice of the regulations adopted shall have been given.

The Selectmen shall be governed by all applicable General Laws in carrying out the authority vested in them by this chapter. Any violation of a regulation duly adopted by the Board of Selectmen shall be punished by a fine not to exceed three hundred dollars (\$300) in accordance with a schedule of fines set forth in the regulations.

**History: Amended 12-3-1984 STM, Article 50.**

**History: Amended 10-7-1991 ATM, Article 36, approved by Attorney General 1-7-1992.**

#### **§145-2 Appointment of Herring Wardens**

The Town Manager is authorized to appoint one (1) or more Herring Wardens and is authorized, from time to time, to make regulations concerning the opening and maintenance of ditches, sluiceways or canals into any pond within the Town not in private possession for the introduction and propagation in such pond or in any part thereof of herring, alewives or other swimming marine food fish and for the creation of fisheries for the same. No such regulations shall become effective until a public hearing has been held by the Board of Selectmen and public notice of the regulations adopted shall have been given.

**History: See Charter, Section 4-2(B).**

**History: Amended 12-2-1985 STM, Article 52, approved by Attorney General 2-11-1986. History: Amended 10-17-2005 STM, Article 1, approved by Attorney General 3-16-2006.**



**PLEASE READ THIS DOCUMENT**  
**IT IS YOUR RESONSIBILITY TO KNOW THE RULES AND**  
**REGULATIONS GOVERNING OUR SHELLFISHERY**

**Chapter 145-1: All persons shall read, or listen to a reading of, and understand the Mashpee Shellfish Regulations before shellfishing.**

The Mashpee Select Board hereby issues the following regulations for shellfishing in the Town of Mashpee as authorized by Massachusetts General Laws, Chapter 130, and Section 52. These regulations are effective as of June 2022 and remain in effect until further notice. These regulations supersede all previous regulations, which are hereby rescinded.

**Adoption of regulations; posting of changes.**

- A.** These regulations are made by the Select Board of the Town of Mashpee, under the authority of General Laws, Chapter 130, and the Town of Mashpee By-Laws. These regulations shall supersede and replace any former shellfish regulations and shall continue in force until rescinded or replaced by the Select Board, or until the Select Board's authority to make and enforce such shellfish regulations has been repealed.
- B.** These regulations are subject to change from time to time and said changes will be posted at the Town Clerk's Office bulletin board, the Shellfish Division Offices, and the Natural Resources website.
- C.** All persons shall read, or listen to a reading of, and understand the Mashpee Shellfish Regulations before shellfishing in the Town.

**Definitions.**

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

**ANNUAL REPORT** - A report that must be submitted to the Town every year before February 28<sup>th</sup>, which includes the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from a licensed aquaculture area, and an estimate of the total number of each kind of shellfish at the time of such report, planted or growing thereon (MGL Chapter 130; Section 65).

**APPRENTICE COMMERCIAL SHELLFISHING PERMIT** - Granted under the authority of the Shellfish Constable to a resident child under the age of 16 for the purpose of assisting a sponsor Town of Mashpee commercial shellfish permit holder.

**AQUACULTURE LICENSE** - An authorization, granted by a vote of the Select Board, to utilize a specific tract of land under coastal waters: (1) to plant and grow shellfish using in-bottom or off-bottom culture; (2) to place shellfish in or under protective devices affixed directly to the tidal flats or land under Mashpee's coastal waters out to three miles from the Town coastline, such as boxes, pens, trays, bags or nets; (3) to harvest and take legal shellfish; (4) to plant cultch for the purpose of catching shellfish seed; and (5) to grow shellfish by means of racks, rafts or floats (MGL Chapter 130; Section 57).

**BATCH** - All shellfish in each separate container.

**BLOOD ARK CLAM AND PONDEROUS ARK CLAM** - Bivalves of the species *Anadara ovalis* and *Noetia ponderosa* are some of the few marine mollusks having red blood, due to the presence of hemoglobin. Their shells grow to a length of approximately two or three inches and are fairly thick and sturdy. Each of the two valves has approximately 35 radiating ribs. The complete bivalve, when viewed from the end, is heart-shaped.

**BUSHEL** - Except as otherwise noted, the quantity contained in a tote basket measuring 2,746 cubic inches in volume. Shellfish shall be level with the top of said tote basket.

**JERK RAKE (BULLRAKE)** - A T-handled hand-held and hauled implement used for the harvesting of shellfish. It shall be 12 inches or wider and have a fixed basket and teeth.

**CALENDAR WEEK** - Seven full days beginning on any Sunday and ending on the following Saturday.

**CHANNEL** - The area marked by U.S. Coast Guard navigation buoys or Town PATON's indicating a navigable way of passage.

**COMMERCIAL FISHERMAN** - Any person who sells or offers for sale, shellfish, sea worms or eels, for cash or other consideration.

**COMMERCIAL SHELLFISH PERMIT** - Granted under the authority of the Select Board, for the taking of shellfish for sale or other consideration.

**COMMONWEALTH OF MASSACHUSETTS COMMERCIAL SHELLFISHING PERMIT** - A permit issued by the Division of Marine Fisheries and defined in General Laws, Chapter 130, § 80.

**CONCH** - Those species of whelk known as *Busycan carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

**CMR** - Code of Massachusetts Regulations.

**CULL** - To sort and measure shellfish; separate seed from adult stock and replant seed.

**DOMICILE** - That place where (a person) has his true, fixed and permanent home and principal residential establishment, and to which whenever he is absent he has the intention of returning

**FAMILY** - All those persons of the immediate family (spouse or partner and any unmarried children and grandchildren under the age of 18) domiciled and living under the same roof.

**HARVEST** - To catch, dig, take or attempt to catch, or take any fish, shellfish or bait.

**HINGE WIDTH** - The distance between the convex apex of the right shell and the convex apex of the left shell.

**HYDRAULIC METHOD** - The taking or attempt to take shellfish by means of water pressure pumped through a single pipe (wand), manifold or other device approved by the Shellfish Division, said pressure being supplied by a mechanical pump. The hydraulic method includes the raking or collection of shellfish dislodged from the bottom via said water pressure.

**LAND or LANDING** - To transfer the catch of fish or shellfish from any vessel to any other vessel or from the waters, flats or any vessel onto any land, pier, wharf, dock or other artificial structure.

**MASTER PERMIT** - A permit allowing the commercial harvest of scallops, clams, mussels and eels from contaminated areas for relay or depuration granted by the State.

**PECK** - The quantity contained in a standard metal wire peck basket, level with the top of said peck basket. Said quantity shall not exceed 10 quarts (672 cubic inches) dry measure. The said peck basket shall be the only authorized container allowed to recreationally harvest and contain shellfish unless another container is authorized by the Shellfish Constable.

**RECREATIONAL PERMIT** - A permit granted under the authority of the Select Board for the taking of shellfish for noncommercial domestic use only.

**RESIDENT** - Resident real estate taxpayers, year-round tenants, non-seasonal tenants (with tenancies of six months or more of the calendar year) of residential dwellings located within the Town of Mashpee.

**PROOF OF RESIDENCY** - Current real estate tax bill, non-seasonal lease or, valid Massachusetts operator's license, or any other ID issued by the Massachusetts Registry of Motor Vehicles, in combination with Massachusetts motor vehicle registration, both listing a residential dwelling within the Town of Mashpee. The address of a post office box is not acceptable as proof of residency.

**SEED CLAM** - Soft shell clams measuring less than two inches in the longest diameter.

**SEED OYSTER** - Oyster measuring less than three inches in the longest diameter.

**SEED BAY SCALLOP** - Bay scallops which do not have a well-defined raised annual growth line on the shell.

**SEED QUAHOG** - Quahog measuring less than one inch shell thickness (hinge width).

**SHELLFISH** - Includes, but not limited to, clams, quahogs, mussels, oysters, scallops, razor clams or razor fish, sea clams, sea scallops, sea quahogs, conchs and whelks.

**WET STORAGE** - The temporary storage of harvested shell stock that was moved from the original harvested area to another site.

**Purpose of Regulations** - The purpose of these regulations is to foster, protect and preserve Mashpee's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the Commonwealth of Massachusetts, including Massachusetts General Law Chapter 130, Title 322 Code of Massachusetts Regulations, applicable orders and directives issued by the Commonwealth of Massachusetts Division of Marine Fisheries, and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC (Southeastern Massachusetts Aquaculture Center).

### **General Provisions**

**Poaching** - Any unauthorized person who poaches or otherwise disturbs any shellfish in any amount or in any location shall be subject to criminal penalties and potential civil penalties (See MGL Chapter 130, §§ 9, 15A, 17D, 24, 27, 66.)

**Daily Time Limits** - No person shall harvest, pick, dig, pile, take or carry away any shellfish from the waters of the Town, by any method between one half (1/2) hour after sunset and one half (1/2) hour before sunrise. (MGL Chapter 130; Section 68)

**No Same Day Landings in Excess of Daily Limit** - No person shall come ashore with shellfish and return to the waters of the Town on the same day for the purpose of taking additional shellfish in excess of the daily permit limit.

**Disturbance of Grant by Other than Licensee** - No one may in any way disturb the growth or arrangement of shellfish on a licensed area, or work a dredge, or use any other implements to harvest shellfish, or discharge any substance which may directly injure the shellfish upon a licensed area, or willfully damage, remove or tie up to any of a grant's designating boundary markers, without the express consent of the licensee. No one, while upon or sailing over any such licensed acreage may have overboard any implement for the taking of shellfish, under any pretense or purpose whatever, without the expressed consent of the licensee. (See MGL Chapter 130; Section 66 and Section 67)

**Inspection on Demand** - All persons harvesting, carrying away or otherwise having in their possession shellfish or marine organisms of any kind, in a boat, container or vehicle shall exhibit all such shellfish for inspection on demand by any Shellfish Officers, Natural Resource Officers or any other duly authorized agents.

**Areas Restricted to Use by Permit Class** - No holder of a commercial permit shall take shellfish from an area reserved for the holders of noncommercial permits and vice-versa.

### **Recreational Shellfishery**

#### **A. Classes of recreational shellfishing permits, licensing requirements and conditions** -

Licenses shall be subject to fees that could change annually.

1. Resident recreational permits: Those who pay real estate taxes or are Residents, as defined herein, of the Town of Mashpee are entitled to a Town of Mashpee recreational shellfishing permit. This permit also allows the taking of sea worms, and eels for noncommercial purposes.
  - a) Family recreational permit: issued on the basis of one per Resident over the age of 18 with a max of two per Family, as defined herein.
  - b) Nonresident recreational permit: issued to an individual, regardless of residency. The same conditions as Resident recreational permits apply, with the exception of the requirement of Town of Mashpee residency.
  - c) Senior recreational permit: issued to an individual who has attained the age of 65 and is a legal Resident of, or pays real estate taxes to, the Town of Mashpee; two permits per Family, as defined herein.
  - d) Veteran recreational permit: issued to a resident of the Commonwealth of Massachusetts who is a veteran, as defined by MGL c. 4, § 7, cl. 43rd, as amended by the Acts of 2005, Chapter 130. The same conditions as Resident recreational permits apply, with the exception of the requirement of Town of Mashpee residency.

#### **Permit conditions**

- A. Permit expiration date: Recreational permits expire on March 31st, each year, except as otherwise noted.
- B. Unlawful harvest without a recreational permit: No person shall take or attempt to take shellfish or sea worms within the Town of Mashpee unless he or she is in possession of a valid Town of Mashpee shellfish permit or is otherwise legally entitled to engage in such activity, including Native Americans with valid tribal identification cards who assert aboriginal rights to harvest for sustenance purposes.
- C. Prohibition of sale of shellfish: No person shall sell or offer for sale, for money or other consideration, any shellfish, sea worms, herring or eels, taken under a recreational permit.
- D. Transfer of permit: The Town of Mashpee shellfish permit is not transferable. An illegally transferred permit shall be considered invalid and revoked.
- E. Child under 12: No person (child) under the age of 12 years shall be allowed to use the recreational permit unless accompanied by an adult with a valid shellfish permit.
- F. Guests of a recreational permit holder: A recreational permit holder may take guests to dig with them as long as only one weekly limit is taken. One limit per permit is allowed. The permit holder must be present and is responsible for any violations against the shellfish rules and regulations by the guest(s).
- G. The Town of Mashpee shellfish permit shall be visibly displayed to the Shellfish Constable, Deputy Shellfish Constable or Natural Resource Officer upon request.
- H. Landing restriction: All shellfish harvested under a recreational permit shall be landed in the Town of Mashpee.

### **Harvest time restrictions**

- A. Harvest days. Shellfish taken under a recreational permit may be harvested on any day of the week. The shellfishing calendar week consists of seven full days beginning on any Sunday and ending on the following Saturday.
- B. Other harvest day restrictions.
  - 1. Scallops. (See scallop regulations.)
  - 2. Oysters. Season dates will be posted annually at Mashpee Neck Landing and the Shellfish Division Website.
- C. Harvest hours. No person shall take or attempt to take shellfish or sea worms during the nighttime hours, between sunset and sunrise.

### **Harvest limits**

- A. With the exception of scallops, the total amount of shellfish taken on a recreational permit in any one week shall not exceed one peck. The recreational weekly limit for the following species of shellfish, worms and eels, in season, shall be:
  - 1. Soft shell clams: one level peck, as defined.
  - 2. Quahogs: one level peck, as defined.
  - 3. Mussels: one level peck, as defined.
  - 4. Sea scallops: one level bushel, as defined.
  - 5. Sea clams: one level bushel, as defined.
  - 6. Oysters: limits will be posted annually.
  - 7. Razor clams: one level peck, as defined.
  - 8. Jackknife clams: one level peck, as defined.
  - 9. Sea worms: not more than 100.
  - 10. Eels: 5 per day.
- B. Authorized recreational shellfish container: All shellfish harvested under a recreational shellfishing permit shall be harvested and contained in a standard metal wire peck basket as defined. No other containers are allowed unless approved by the Shellfish Constable or a Deputy Shellfish Constable.

### **Minimum size limits**

- A. 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):
  - 1. Soft shell clams less than two inches in longest diameter
  - 2. Quahogs less than one inch shell thickness (hinge width)
  - 3. Bay scallops without a well-defined raised annual growth ring
  - 4. Blue or Ribbed mussels less than two inches in longest diameter
  - 5. 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.
  - 6. Sea clams less than five inches in longest diameter
  - 7. Oysters less than three inches in longest
  - 8. Eels or elvers less than nine inches in total length.
  - 9. Blue Crabs less than 5 inches Spine to Spine

### **Gear restrictions and regulations**

- A. Clams and razor clams may be taken with a standard clam hoe (rake) or hand plunger. No shovels, forks or other devices or materials shall be used, unless approved by the Shellfish Division.
- B. Quahogs and oysters may be taken by hand, rakes, tongs, and dipnet. A bullrake or jerk rake may only be used in the Commercial Fishery. No other device may be used, unless approved by Shellfish Division.
- C. Eels and elvers may be taken by pots, spears or angling. A recreational shellfish permit must be in possession; the limit for recreational permit holders is 10 pots; all pots and buoys are to be marked with the permit holder's name, and buoys must be painted bright green.
- D. Skin or scuba diving. All people's skin or scuba diving for shellfish shall display the diver-down flag and, upon request, produce a Town of Mashpee shellfish permit.

### **Shellfishery conservation and management**

- A. Temperature restriction. Dry digging for soft shell clams and quahogs is prohibited when the air temperature is 28° F. or below.
- 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. Shucking restriction. All shellfish harvested shall be brought ashore in the shell.
- D. Wet storage prohibition. The wet storage of shellfish in the Town of Mashpee waters is prohibited. The fine for violation of this section is \$200.
- E. Transport of seed restriction. No person shall transport or move seed clams, quahogs, oysters or scallops.
- F. Area closures. No person shall take or attempt to take shellfish from a closed area. Shellfishing for any purpose is prohibited in these areas. (See also shellfish area status.) Areas may be posted closed from time to time by the Shellfish Division 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, eels, lobsters, crab and sea worms harvested in the Town of Mashpee 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 up to \$300 per incident, and \$300 per day for any such destruction which continues over more than a twenty-four-hour period of time.

### **Recreational scallop regulations**

- A. Closed season. The harvest of scallops shall be closed (prohibited) effective April 1 annually, MGL C. 130, § 71. Open season will be posted annually.
- B. Recreational harvest limit. One peck per week may be harvested.
- C. Minimum size limit. Only scallops with a well-defined raised annual growth ring may be taken; all other scallops will be considered seed scallops and must be returned to the water immediately, with one exception provided in 322 CMR 6.11. This exception states bay scallops that have a well-defined raised annual growth line located less than 10 millimeters

(mm) from the hinge of the shell shall be lawful to harvest and possess if the shell height is at least 63.5 millimeters or 2.5 inches. It shall not be unlawful to have in possession seed scallops unavoidably left in the catch after it has been culled.

- D. Gear restriction. Scallops may be taken by hand, rake, dipnet and dragging in all areas that are not closed to dragging. In such areas closed to dragging, they may be taken by hand, dip net, rakes and diving. No other devices may be used.

### **Regulations pertaining to other species.**

#### **A. Herring and alewife rules and regulations**

1. It shall be unlawful hereunder for any person to harvest, possess or sell river herring in the Town of Mashpee or in waters under the jurisdiction of the Commonwealth of Massachusetts unless said person is otherwise legally entitled to engage in such activity, including Native Americans with valid tribal identification cards who assert aboriginal rights to take river herring for sustenance purposes.
2. Conservation. Throwing objects into the water and/or malicious destruction of the herring and alewives is prohibited.
3. Unauthorized alteration of herring runs. No person shall tamper with, adjust or destroy any structure provided for the passage of herring and alewives unless authorized by the Herring Warden.
4. The penalty for violation of any of these regulations shall be \$100. Possession of river herring shall carry the penalty of \$50 per fish, each fish constituting a separate offense.

#### **Edible Crab regulation**

- A. **Blue crab:** 5 in shell width (spine to spine) Egg-bearers cannot be taken. Limit of 25 crabs/day. No permit required unless using traps or SCUBA. Closed season on harvest is January 01–April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.
- \*Prohibition:** Using traps to fish for blue crabs and retaining blue crabs taken by trap gear is prohibited. Only actively fished gear may be fished for blue crabs. This includes trot lines, dip nets, and collapsible traps.
- B. **Other edible crabs:** 50 crabs total per day (including up to 25 blue)—other regulations are the same as for blue crab. Closed season on harvest is January 01– April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.
- C. **Invasive crabs:** In order to harvest green crabs, you must obtain a Letter of Authorization (LOA) from the Division of Marine Fishery's. Closed season on harvest is January 01–April 30, inclusive. Closed season on trap gear is November 1 - May 15, inclusive.

For recreational rules and regulations pertaining to other species including conch, whelk, ocean quahog, sea scallop, lobster, crabs and sea urchins, refer to Massachusetts General Laws Chapter 130 and Title 322 Code of Massachusetts Regulations. All laws within Ch. 130 and CMR 322 pertaining to salt water fisheries are hereby incorporated by reference into these Regulations.

#### **Commercial Shellfishing**

##### **A. Classes of permits and permit conditions.**

1. Town of Mashpee commercial shellfishing permits are granted under the authority of the Select Board for the taking of shellfish for sale or other consideration, issued to persons, other than aliens, having attained their 16th birthday and who are domiciled in the Town of Mashpee. When the holder of a Town of Mashpee commercial shellfish permit is no longer domiciled in the Town of Mashpee, said Town of Mashpee commercial shellfish permit shall be void.

- a) Limitation of available licenses. Commercial shellfishing licenses shall be issued each year only to commercial shellfish license holders of the preceding year who apply for license renewal. Commercial shellfish license renewals must be applied for between January 1 and January 31.
- b) Commonwealth of Massachusetts commercial shellfishing permit. This permit is required by Massachusetts General Law to dig or take shellfish within the Commonwealth of Massachusetts for commercial purposes and required prior to issuance of the Town of Mashpee commercial shellfish permit.
- c) Town of Mashpee commercial shellfishing permit fee: \$125
- d) Commercial shellfishing permits expire on March 31 each year.
- e) Unlawful harvest without a commercial shellfishing permit. No person shall take or attempt to take shellfish for sale or other commercial purpose, unless said person is the holder of a valid Town of Mashpee commercial shellfish permit. It shall be prima facie evidence that persons shellfishing on a Town of Mashpee commercial shellfish permit are utilizing said permit for commercial purposes, and are subject to all regulations governing such use. This shall not apply to holders while on their licensed site.
- f) Catch report. A catch report for the calendar year shall be submitted to the Shellfish Division, on forms provided, no later than January 15 annually. Failure to submit a catch report will result in a fine of no more than \$300, as per the determination of the Shellfish Division, and may result in a suspension of the Town of Mashpee commercial shellfish permit for one year, commencing the next commercial permit year (April 1 to March 31).

**Commercial shellfishing permit application procedure**

- A. Each applicant for a Town of Mashpee commercial shellfish permit shall fill out and submit an application form, provided by the Town Clerk's Office, with an application fee of \$5; said application fee is not refundable but will be applied to the permit fee when said permit is picked up. Attached to the application shall be a copy of:
  - 1. Commonwealth of Massachusetts commercial shellfish permit, valid for the year being applied for.
  - 2. Documentation to verify the applicant is domiciled in the Town of Mashpee. This may be current real estate tax, mortgage or lease and copy of motor vehicle registration. (A driver's license is not proof of domicile.) The burden of proof is on the applicant.
  - 3. Validated catch report stub from the year previous to the year being applied for.
- B. Application window. Each applicant for a Town of Mashpee commercial permit must apply for said permit between January 1 and January 31 annually. Applications will not be accepted after January 31 without written request to the Shellfish Division that establishes significant personal hardship that precluded a timely application. After paying the initial application fee of \$5 for the commercial permit, the applicant must pick up and tender the balance of the permit fee within 90 days after the application deadline.
- C. Address change. Should any commercial permit holders address change during the commercial permit year, he/she must notify the Shellfish Division Office, in writing, of said address change.

**General commercial shellfishing.**

- A. No person shall take or attempt to take shellfish or sea worms during the nighttime hours, between sunset and 1/2 hour before sunrise.
- B. Tagging shellfish and display of shellfish permit.
  - 1. The regulations for tagging shellfish set forth in 322 CMR 16.03 are hereby incorporated and made a part hereof.

- C. All shellfish, commercial permits and licenses shall be displayed for inspection upon demand of a Shellfish Constable, Deputy Shellfish Constable, or Town of Mashpee Natural Resource Officers.
- D. No person shall possess shellfish in excess of daily commercial limit while in or on the waters of the Town of Mashpee or while landing their catch.
- E. After the completion of harvest, all shellfish harvested in the Town of Mashpee under a commercial permit shall be landed at a Town landing. The word "landed" as used herein shall mean the location where shellfish are removed from the shoreline to any point of land above the mean high-water line. A commercial shellfish permit holder shall not take in any one day shellfish in excess of the commercial quantity allowed by statute or regulation, regardless of the fact that he or a member of his Family may hold a Family shellfish permit.
  - 1. The wet storage of shellfish in Town of Mashpee waters is prohibited. The fine for wet storage is \$200.
  - 2. All persons engaged in skin- or scuba-diving for the commercial harvest of shellfish shall display the diver-down flag and, upon request, and produce a Town of Mashpee commercial shellfish permit.
  - 3. Hydraulic method or hand plunger shall be used to harvest subtidal soft-shell clams, jackknife clams and common razor clams. The harvest of other species of shellfish utilizing the hydraulic method is prohibited.

#### **Commercial Soft-Shell Clam Shellfishing**

##### **A. Other applicable regulations; minimum size limit; harvest limit.**

- 1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations apply. In addition, the following conditions, rules, and regulations apply.
- 2. 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) soft-shell clams less than two inches in longest diameter to the amount of more than 5% of any batch.
- 3. Commercial soft-shell clam harvest limit. The total daily limit of soft-shell clams commercial harvest shall not exceed three level tote baskets, as defined.
- 4. Gear restriction. Pumps shall not exceed eight horsepower and shall be equipped with proper muffler and exhaust system. Pumps shall be mounted low in the boat to limit noise.

#### **Commercial Quahog Shellfishing**

##### **A. Other applicable regulations**

- 1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations and shellfishery conservation and management regulations apply. In addition the following conditions, rules and regulations apply:
  - a. Littleneck: greater than or equal to one-inch hinge width; less than 2 1/2 inches in longest diameter.
    - (1) Cherrystone: greater than or equal to 2 1/2 inches; less than three inches in longest diameter.
    - (2) Chowder: greater than or equal to three inches in longest diameter.
  - b. 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) quahogs less than one inch shell thickness (hinge width) to the amount of more than 5% of any batch.

- c. Quahogs may be commercially harvested by hand, rakes, tongs, dipnet and bullrake. No other device may be used, unless approved by the Shellfish Division
- d. All helpers actively assisting a commercially licensed shellfisherman harvesting quahogs are not required to hold a valid Massachusetts commercial shellfish and sea worms permit. Said helper shall be allowed to cull and sort the quahog catch and return seed to the water. Said helper shall not be allowed to harvest quahogs. All helpers must present their valid Massachusetts commercial shellfish and sea worms permit, in person, to the Shellfish Division office prior to initially assisting a commercially licensed shellfisherman.
- e. 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 five 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.

### **Commercial Scallop Shellfishing**

#### **A. Other applicable regulations.**

- 1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations apply. In addition, the following conditions, rules and regulations apply.
- 2. Scallops may be commercially harvested daily, Saturday thru Sunday.
- 3. The harvest of scallops shall be prohibited from April 1 through October 1 annually per MGL C. 130, § 71. Open season will be posted annually.
- 4. Harvest limits will be posted annually at the Town Clerk's Office, the Town of Mashpee Natural Resources website, and at Town owned bulletin boards at Town landings.
- 5. Only scallops with a well-defined raised annual growth ring may be taken; all other scallops will be considered seed scallops and must be returned to the water immediately. However, it shall not be unlawful to have in possession seed scallops unavoidably left in the catch after it has been culled to the amount of not more than 5% of the total catch remaining.
- 6. Scallops may be taken by hand, rake, dipnet and dragging in all areas that are not closed to dragging. In such areas closed to dragging, they may be taken by hand, dip net, rakes and diving. No other devices may be used.
- 7. No drags or dredges shall exceed 32 inches in width.
- 8. No dragging shall be permitted in any of the Town of Mashpee's embayments or saltwater rivers or ponds. Dragging is only permitted in Nantucket Sound.
- 9. All helpers actively helping a commercially licensed shell fisherman, harvesting scallops, shall be required to hold a valid Massachusetts commercial shellfish and sea worms permit. However, no such permit is required to operate the boat. All helpers must present their valid Massachusetts commercial shellfish and sea worms permit, in person, to the Shellfish Division Office prior to initially helping a commercially licensed shell fisherman.
- 10. There shall be not more than two harvest limits allowed per boat for commercial permit
- 11. It shall be unlawful for the holder of any type of permit to sell or offer for sale, or transfer their catch, unless landed ashore.

### **Commercial Shellfishing and Fishing Regulations for Other Species**

#### **A. Applicability of other regulations**

- 1. All commercial shellfishing permit conditions, general commercial shellfishing rules and regulations, and shellfishery conservation and management regulations (M.G.L.

Ch. 130 and CMR 322) apply for each species. In addition, the following conditions, rules, and regulations apply for the individual species as listed.

**Commercial jackknife clam and common razor clam shellfishing.**

- A. Commercial jackknife clam (*Tagelus plebeius*) and common razor clam (*Ensis directus*) harvest limit. The total commercially harvested daily limit of either species shall not exceed one level tote basket, whether harvested in the areas open for commercial harvest

**Commercial oyster shellfishing.**

- A. The commercial harvest of oysters is prohibited in the Town of Mashpee, except for licensed Aquaculturists on their licensed sites.

**Commercial elver and eel fishing.**

- A. It is unlawful for a person to take or possess elvers or eels of a size less than nine inches in total length.
- B. No person shall take or attempt to take eels for the purpose of sale or any commercial purpose unless he or she is the holder of a Town of Mashpee commercial permit endorsed for eels.
- C. No person shall take or attempt to take eels, *Anquilla rostrates*, by any contrivance other than by pots, spears or angling. The use of eel pots with a wire mesh size smaller than 1/2 inch by 1/2 inch is prohibited.
- D. All buoys will be painted the Town eel fishery color, bright red, the Town Shellfish permit number shall be displayed on all buoys. A colored stripe may be added for identification.
- E. Pots shall not be set in navigable marked channels. No person shall fish in excess of 2 pots.
- F. Freshwater eeling. Commercial eeling in freshwater is allowed by special state permit. A valid Massachusetts fishing license is also required

**Shellfish Area Status**

- A. Periodically updated shellfish area maps and shellfish area openings and closures are available online at: Town of Mashpee Natural Resources: Shellfish Division page Shellfish maps displayed on this web site are to illustrate written geographical definitions of shellfish areas, as defined by the Massachusetts Division of Marine Fisheries and the Town of Mashpee Shellfish Division. In the field, signposts, buoys and landmarks are used to assist in the demarcation of written geographical definitions of shellfish areas. Check with the Shellfish Division Hotline (508) 365-2896 to verify shellfish area closures. The harvest of shellfish is prohibited in those areas posted by the Shellfish Division, regardless of the fact that weather or man may from time to time remove signage. If an area has been posted and signage is missing, notify the Shellfish Division.

**Aquaculture License Regulations**

**A. Proof of residency required.**

1. Aquaculture licenses, herein referred to as the "license," will be issued only to Town of Mashpee residents who prove to the satisfaction of the Select Board, as licensing authority, that they are a bona fide, principally domiciled Resident of the Town of Mashpee and have been principally domiciled within the Town for at least 12 consecutive months prior to the date of application. Two forms of written proof of residency are required; tax bills paid by the applicant, rent receipts with accompanying lease agreement, utility bills paid by the applicant, driver's license, car registration issued to the applicant, etc., may serve as proof. All local tax obligations must be paid in full in order for an application to be considered in accordance with MGL c. 40, § 57. The license for any area licensed subsequent to the adoption of these rules and regulations shall be forfeited if the holder of the license, herein referred to as the "licensee," ceases to be a bona fide, principally domiciled Resident of the Town of

Mashpee. Annual documentation to verify the licensee is principally domiciled in the Town of Mashpee is required. This may be a current real estate tax bill, mortgage statement or residential lease and copy of motor vehicle registration. (A driver's license is not valid proof of domicile.) The burden of proof is on the licensee and shall be included with the annual license fee, due by February 28th each year.

**Moratorium on issuances of new licenses** - The Select Board may, in its discretion, issue a moratorium on the issuance of new licenses at any time when such action is deemed appropriate and in the best interests of the Town's shellfisheries.

**Compliance with all laws required; approval of license** - The approval of any aquaculture license shall be subject to all federal, state and local laws, rules and regulations, as in force and as may be amended from time to time. The licensee shall comply with all such rules and regulations pertaining to the operation of an aquaculture license in the state of Massachusetts. Failure to comply with any of the aforementioned laws, rules and regulations shall be cause to revoke the license.

**Exclusivity of license; subleasing prohibited; transfer of license** - Licenses are issued to and for the exclusive use of the licensee, who may contract with or employ others to work for the licensee. Subleasing of the licensed area or portion thereof is prohibited. Licenses are renewable, heritable, and transferable, subject to the Select Board's written approval and pursuant to applicable provisions of Massachusetts General Law Chapter 130. Licenses are transferable only after five years from the original license issuance date, subject to review by the Shellfish Division for reporting requirements and production standards and pursuant to Massachusetts General Law Chapter 130. A licensee proposing to transfer his or her license shall first notify the Shellfish Constable in writing that he/she no longer wishes to operate the license and requests a transfer of his/her licensed area to a designated recipient. Such recipient shall thereupon file an application. Thereafter, the application shall be treated, insofar as apt, as a new application. If, however, the licensee is under any pending investigations or violations, the license may not be transferred.

**Changes to original plans** - All proposed changes to the original working plans as described in the original application, and all additions of material investments, which may include, but are not limited to, rafts, floats, racks, cages, trays, nets, etc., must be submitted in writing to the Shellfish Division and if in the discretion of the Shellfish Division changes are such that further review is warranted then the Shellfish Division may recommend to the Conservation Commission if applicable that further review of the proposed change take place and the Shellfish Constable, upon review of the proposed change may approve or deny said proposed change.

**New license period; renewal** - A new license shall be issued for a period not to exceed five years, and for a total maximum area not to exceed two acres. The licensee may apply for renewal of the license at any time within two years prior to the expiration date of the license. The Select Board shall review, approve, or deny the licensee's request for renewal within 60 days after receipt of the renewal request.

**Acreage limitation** - The maximum total acreage licensed to any licensee shall not exceed two acres. This acreage limitation does not apply to any existing so-called grant (now referred to as a "license") which is in excess of two acres and will not prevent the grant holder (now referred to as the "licensee") from future renewals, provided that said licensee abides by all other applicable regulations set forth herewith.

**License fee** - An annual license fee of \$25 per acre, or any part thereof, shall be paid to the Town by the licensee upon the issuance of the license and, thereafter, on or before February 28th of each year. If the fee is not paid within 30 days after it becomes due, the license shall be forfeited. A full production report is required to be submitted to the Shellfish Division for approval prior to the yearly renewal.

**Reasonable production value** - An annual review of each license will be conducted by the Shellfish Division in order to determine reasonable production value. If, after the third year of a new license, any licensee cannot show that a reasonable amount of shellfish product has been produced on the license during the preceding year, the license shall be forfeited. For purposes stated herein, "reasonable amount of shellfish product" shall mean not less than \$5,000 per acre per year based upon market value. This amount is subject to change with inflation rates. Failure of the licensed shellfish product to meet such a value shall result in a forfeit of the shellfish aquaculture license and licensed area. If, for any year, the licensee does not meet the reasonable production value, then upon written request to the Shellfish Constable, said reasonable production value may be waived at the discretion of the Shellfish Constable for that particular year, provided that the licensee can demonstrate to the Shellfish Constable that the cause of the lower amount produced is the direct result of a natural disaster or other unforeseen personal misfortune.

**Filing of annual reports** - Licensees shall file annual reports with The Shellfish Division in accordance with the form provided on or before February 28 of each year and shall produce documents upon the request of the Shellfish Division showing purchase and sale slips stating the total amount of each kind of shellfish planted, produced, or marketed during the preceding year (January 1 through December 31) upon or from the licensed area, and an estimate of the total number of each kind remaining. The report shall disclose all necessary information as required by these regulations which establishes that the licensee reached the reasonable production value. A new license holder is required to submit purchase and sale slips for the source(s) of seed planted on his/her licensed site and/or gear purchased for his/her licensed site for the first three years of his/her original license.

**Transplanting seed stock from public fisheries prohibited** - No person shall transplant seed, seed stock or stock from the public fisheries within the Town for purposes of stocking licensed aquaculture land with such seed or stock. Noncompliance with this regulation shall subject the licensee to a fine hereunder.

**Marking boundaries of licensed areas**

- A. Licensees shall use yellow buoys not less than 15.5 inches in shortest diameter to mark only the most external changes of angles on shellfish aquaculture sites. The buoys shall bear the state propagation permit number issued to the licensee and the words "Aquaculture Area." Said numbers and letters shall not be less than two inches in height. The minimum weight requirement for said buoys should be at least 75 lbs.

- B. All other licensed area boundaries shall be marked at all corners and changes of angles by uniform yellow buoys, not less than 11.5 inches in shortest diameter, and bear the state propagation permit number issued to the licensee. Said numbers shall not be less than two inches in height. Where a licensed area borders another licensed area, a buoy may bear the state propagation permit number of more than one licensee. All said buoys shall be deployed from April 1 until November 15, annually.
1. Any proposed alternative marking of a licensed area must be submitted in writing to the Shellfish Division and if in the discretion of Natural Resources the changes are warranted, they may be approved in writing. The Harbormaster may direct licensees of licensed areas that border navigational channels to use specified buoys to mark their licensed area boundaries for navigational purposes.
  2. Each licensee is responsible for maintaining the buoys marking their licensed area. Failure to place or reasonably to maintain said buoys shall be sufficient cause for revocation of the license. Said regulation is subject to fine schedule for noncompliance. The Shellfish Constable shall have the authority to temporarily waive these regulations if the presence of ice, severe weather or other condition hampers the ability of the licensee to immediately comply with these regulations.

**Conditions for Use of Area Licensed for Aquaculture** - The Select Board may license specific areas beneath the waters of the Town to individuals for the purpose of granting exclusive rights to plant, grow and harvest shellfish from that area. Said license is subject to the provisions of [MGL Chapter 130](#), the regulations and orders/ directives of the Division of Marine Fisheries, these Regulations and other applicable Town By-laws, as well as any specific conditions or restrictions set forth in the license by the Select Board. A licensee shall have the right to the exclusive use of the lands and waters described in a license for the purposes of growing shellfish thereon. This license does not grant any property rights. Any use of this license for other than the planting, growing, and harvest of shellfish upon privately owned property may not proceed over the objection of the property owner. This license does not authorize any damage to private property or other violation of private rights. The issuance of this license is not a determination or transfer of title or ownership. The licensee acknowledges that it is his/her responsibility to obtain permission, if requested in writing, from a property owner before exercising any rights conferred by the license other than for the planting, growing and harvest of shellfish on that property. However, the licensee is on notice that the owners of the property described in the license may, notwithstanding applicable licensure provisions of General Law and these Regulations, bring an action for trespass in a court of competent jurisdiction. A licensee is further required to comply with other laws of the Commonwealth, including environmental laws and laws concerning interference with navigation.

**Working of Grants by Non-Licensees** - All individuals authorized by a licensed grant holder to work the grant in the absence of a licensed grant holder must be registered with the Shellfish Division. Licensees are responsible for the actions of all such employees or otherwise affiliated persons while they are working on the grant designated by their license.

**Responsibility for gear and tackle** - The license holder assumes all liability for all gear and tackle used on the licensed site. If any such gear and tackle is moved to a location off the licensed site, it shall be the responsibility of the licensee to remove said gear. If within 21 days after notification to the licensee by the Shellfish Division that the licensee has not complied with this requirement, the Town may cause such gear and tackle to be removed at the expense of the licensee. Every licensee shall permanently mark or tag, in a conspicuous place, any and all gear and tackle used on the licensed site, including without limitation trays, bags, racks, lines and pipes with the six-digit state propagation permit number issued to the licensee. Netting shall be marked or tagged in a conspicuous place, per every 200 square feet. Said regulation is subject to a fine schedule for noncompliance. The Shellfish Constable shall have the authority to temporarily waive these regulations if the presence of ice, severe weather or other condition hampers the ability of the licensee to immediately comply with these regulations.

**Removal of gear upon termination of license** - When a license is discontinued or terminated for any reason, the license holder shall be required to remove all gear from the waters and substrate within 60 days of the license termination date. Any and all equipment not removed within 60 days may be removed by a third party, contracted by the Town, at the expense of the licensee.

**Harbor improvements; migration of navigational channels** - No licensee shall hold the Town of Mashpee or the Commonwealth of Massachusetts liable for any damage to a licensed site as a result of harbor improvements. Any license bounded by a navigational channel, as defined by the Harbormaster, that has migrated by natural or man-made causes into or through a permitted shellfish license and has eroded a portion of the permitted land within the license to a navigational depth of at least three feet at mean low water, said channel shall become the natural boundary of the license and supersede any previous agreed boundaries of the license. The license holder shall sacrifice any and all rights of his/her license within this defined navigational channel. Should sediment migrate and settle, due in whole or in part to natural conditions, leaving an area along the channel with less than three feet of water at mean low tide and adjacent to a licensed site less than two acres in size, a licensee may apply in writing to redefine the boundaries of the license along the channel through the Shellfish Division. Final determination of whether or not a redefinition of boundaries is warranted will be decided by the Select Board at a public hearing.

**Inspection of containers; samples for disease testing** - The Shellfish Constable and/or assistants shall have authority to inspect the licensed area at any time, and said inspection may include any and all containers on the site. In the event that the Shellfish Constable and/or assistants have reason to believe that inspection of the contents of any or all containers on the site is in the best interest of the town, the Shellfish Constable and/or assistant shall contact the licensee by telephone or by leaving a notice at the address of the licensee indicated on the license, however, advising the licensee that the Town intends to inspect the contents of containers on the license and further inviting the licensee to be present at the time of said inspection. In the event that the Shellfish Constable and/or assistant does not receive a response from the licensee within 48 hours of notification by phone or by written notice, the inspection of containers may be conducted without the presence of the licensee. The Town of Mashpee reserves the right at any time to obtain samples of any shellfish from a licensed area for the purpose of certified testing for disease.

**Taking without consent from licensed site** - Whoever takes or attempts to take shellfish of any description upon any shellfish grounds or beds covered by a license granted by the Town of Mashpee or Commonwealth of Massachusetts, or in any way disturbs the growth of shellfish thereon, or whoever discharges any substance which may directly or indirectly injure the shellfish upon any such grounds or beds, without the consent of the licensee or transferee shall be subject to fine for said violation as provided in the Fine Schedule herein.

**Required Icing and Shading of Product** - Annually, during the period of time that the DMF's *Vibrio* control plan is in effect, harvesters must comply with the State's regulations. (See 322 CMR 16.00 Shellfish Harvest and Handling.) With the first offense of this section, the harvester will lose his or her product. With any subsequent offense, the harvester shall lose his or her product and license and/or permit for one year.

**Required Notification during Vibrio Season** - In order to best safeguard public health and maintain sufficient logging during *Vibrio* season all harvesters must notify the Shellfish Division of any harvests or re-submergence activities prior them taking place. Notice should be given as soon as the harvester can reasonably assume that such activities will be taking place. Penalties for this section will be \$50 for the first offense, \$150 for a second offense and confiscation of product for a third violation within one *Vibrio* season.

**Harvest Must Be Tagged** - At the time of harvest, any commercial permit holder who has shellfish of any kind for sale, trade or other consideration, must legibly mark all containers of shellfish using legal tags. (CMR 322 sec 16.)

**Annual Inspection of Each Grant** - The Shellfish Division shall make no less than one visit per year to the site of each licensed area in the company of the license holder.

**No Lethal Predator Control Measures** - Unless specifically authorized by the Director, in consultation with the U.S. Fish and Wildlife Service and/or the National Marine Fisheries Service, it shall be unlawful to use lethal means to control or exclude predators or other organisms from any area used for aquaculture. Non-lethal enclosures, including, but not limited to, nets, fences, bubble curtains and noise may be used, if approved for a specific site and purpose. Invertebrate predators, pests and fouling organisms may be removed manually from an aquaculture site and disposed of in a lawful manner (See 322CMR 13.7.2).

**No Taking of Horseshoe Crabs or Whelks/Conchs without Permit** - Being in possession of horseshoe crabs and whelks (conchs) for any reason requires a State permit. In this regulation, whelk/conch refers to either knobbed whelk (*Busycon carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See CMR 322 6. 34: Horseshoe Crab Management and 322 CMR Section 6.21: Minimum Size for Conch.) As stated in in above section, neither species shall be intentionally killed while practicing predator control.

**Marking of Gear** - Every licensee shall clearly and permanently mark any and all trays, boxes, holding cars and all other aquaculture gear with the license number of the license area in a manner that is clearly visible.

**Fines for Gear Violations** - Following notice of a violation, either in person, via phone, or by written notice, the licensee has 7 days to comply. After the seventh day, a \$50 ticket shall be issued for each day of noncompliance. After 30 days of non-compliance, the licensee shall have his or her license revoked.

**Exception to Hours of Operation** - As required in Section 4.7, no license holder shall harvest, dig, pile, take or carry away any shellfish or shell during the period from one half (1/2) hour after sunset to one half (1/2) hour before sunrise by any method whatsoever. In the event of impending natural emergencies due to storms, ice or the like, and only after notifying the Shellfish Constable, a licensee may engage in securing stock and gear during this time period. Licensees must notify the Shellfish Warden in advance of their intention to empty seed trays and plant out seed at such times when the extreme tides needed to conduct such activities occur during this time period.

**Extension of Acreage without Permission** - No aquaculture license holder may willfully extend or cause to extend his or her grant boundaries, or allow cultivation, operation, propagation or products and equipment to exist beyond the duly recorded boundaries of his or her licensed area. The Shellfish Warden may cause a licensed area to be re-surveyed by a registered civil engineer at the cost of the license holder, in the event that the assigned boundaries of an aquaculture license are called into question. If a violation of this section is then established, the aquaculture license of the individual guilty of the infraction shall then be revoked.

**Containers Holding Undersized Shellfish Must Be Tagged** - All containers that hold market-bound, aquaculture-raised shellfish whose size is less than that allowed by the State when that species is harvested from the wild (petite oysters whose greatest length is between 2 1/2 and 3", quahogs whose hinge width is between 7/8" and 1", or surf clams whose shell diameter is between 1 1/2" and 5") must be tagged with the words **"AQUACULTURE-RAISED" or "FARM RAISED"**.

## **Aquaculture Research and Development Projects**

### **A. License for Aquaculture Research and Development**

The Select Board may issue a license to an individual or an institution (including a corporation) which proposes to conduct aquaculture research and development projects if environmentally appropriate, in the best interests of the Town, and beneficial to the aquaculture industry.

#### **1. Initial Term of License**

The initial term of a research and/or development license shall not exceed two (2) years. The license may then be renewed for a period of up to eight (8) years, for a total maximum of ten (10) years.

#### **2. Plan of Project**

The applicants shall provide a plan of the project including all aspects of the management and operations of the project to the Select Board, the Shellfish Constable, Shellfish Commission, and the Division of Marine Fisheries.

#### **3. Dissemination of Data and Results**

All data and subsequent results and analyses of the project shall be made available to the Select Board, the Shellfish Commission, the Shellfish Constable, and the Division of Marine Fisheries at predetermined times to be established in the license.

4. **Excess Product Returns to Town** - Products resulting from the exercise of this license, in excess of those required for the aquaculture research and development shall be turned over to the Town of Mashpee Shellfish Division for use in municipal propagation.
5. **License review and/or revocation** - Violation of these Regulations subjects the licensee to review and possible revocation of the license at the discretion of the Town of Mashpee Select Board.
6. **Severability** - If any provision of these Regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these Regulations shall remain in full force and effect and not be affected thereby.

## **Enforcement and Penalties**

### **A. Enforcing persons.**

The foregoing regulations shall be enforced by the Shellfish Constable, Deputy Shellfish Constable, Natural Resources Officers, and for the purposes of herring enforcement only, Conservation Agents, hereinafter called "enforcing persons."

#### **1. Violations and penalties.**

Enforcing persons may in their discretion, initiate criminal proceedings for any violation thereof. Alternatively, enforcing persons may utilize the method of noncriminal disposition established by Chapter 1, Article III of the Town of Mashpee By-Laws and M.G.L. Ch.40 Section 21D. The fine for violation of regulations not specifically listed in the fine schedule below shall be \$50.

#### **2. Revocation or suspension of Town permit.**

The Town of Mashpee shellfish permit, recreational or commercial, may be revoked or suspended by the Select Board for any violation of the Town shellfish regulations.

#### **3. Missing signs.**

The harvest of shellfish is prohibited in those areas posted by the Shellfish Division, regardless of the fact that weather or man may from time to time remove signage memorializing the posting. If an area has been posted and signage is missing, notify the Shellfish Division.

## **Fine Schedule.**

<b>Violation</b>	<b>Fee (1st Offence)</b>	<b>Fee (Second Offence)</b>
Shellfishing Without a Permit	\$100.00	\$200.00
Illegal Transfer of Permit	\$50.00	\$100.00
Using False Identification	\$50.00	\$200.00
Selling Shellfish Without a Permit	\$200.00	\$300.00
Possession of Seed	\$50.00	\$150.00
Exceeding Shellfish Limit	\$50.00	\$100.00
Shellfishing in a Closed Area	\$150.00	\$300.00
Shellfishing in a Contaminated Area	\$300.00	Loss of License
Taking Shellfish From a Shellfish Aquaculture License	\$200.00	Loss of License
Taking Shellfish During Closed Season	\$100.00	Loss of License