



**Town of Eastham  
Shellfish  
Regulations  
Eastham Town  
Code  
Chapter 127**

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**1.0 Authority**

The Select Board, through the authority derived from Massachusetts General Laws Chapter 130 and the Eastham Town Code of Conduct, Chapter 127. Herby adopts a set of guidelines for Eastham’s Shellfish Regulations.

**2.0 Purpose**

The purpose of these regulations is to protect, enhance and assure the continuance of a healthy shellfishing industry in the Town of Eastham. Shellfish resources and habitats play a vital role in the Town’s natural resources and these regulations will help maintain and improve a sustainable shellfish population.

### 3.0 *Definitions*

In these regulations, unless the context otherwise requires, the following word shall have the following meanings:

**“Batch”** -- all shellfish in each separate container.

**“Bushel”** -- a standard measure of volume equaling one (1) level wire basket whose interior volume measures two thousand one hundred fifty (2,150) cubic inches.

**“Clam”** -- a marine mollusk of the species *Mya arenaria* commonly called the soft-shell clam.

**“Chowder Quahog”** -- a quahog not able to pass through a two and three quarter (2 ¾) inch ring.

**“Container”** -- any bag, box, basket, cage, or other receptacle containing shellfish.

**“Commercial Permit”** -- a license issued whereby holder thereof may sell the shellfish taken under such permits.

**“Recreational Permit”** -- a recreational license issued which permits an individual, husband, wife or life partners, and dependent(s), who are domiciled and living under the same roof to harvest shellfish.

**“Mussel”** -- a marine mollusk of the species *Mytilus edulis*, commonly known as the blue mussel.

**“Oyster”** -- a marine mollusk of the species *Crassostrea virginica*, commonly known as the American oyster.

**“Possession”** -- in the immediate control of a person e.g. in a boat, car, bag, etc. belonging to an individual.

**“Quahog”** -- a marine mollusk of the species *Mercenaria mercenaria*, commonly called the hard-shell clam.

**“Razor Clam”** -- a marine mollusk of the species *Ensis directus*, commonly called the razor clam.

**“Scallop”** -- a marine mollusk of the species *Aequipecten irradians*, commonly known as the bay scallop.

**“Seed Clam”** -- Soft-shell clams measuring less than two inches in the longest diameter.

**“Seed Oyster”** -- Oysters measuring less than three inches in the longest diameter.

**“Seed Bay Scallop”** -- Bay scallop which does not have a well-defined raised annual growth ring on the shell.

**“Seed Quahog”** -- Quahog measuring less than one inch shell thickness (hinge width).

**“Seed Razor Clam”** -- Razor clam measuring less than five inches in the longest diameter.

**“Shellfish”** -- clams, conchs, moonsails, mussels, oysters, quahogs, razor clam or razor fish, scallops, sea worms, whelk and winkles.

**“Take”** -- any method of harvest of the related species from its habitat.

**“Peck clam basket”** -- a standard measure of volume equaling one (1) level wire basket whose interior volume is ten-quarts or six hundred seventy-two (672) cubic inches.

**“Week”** -- seven (7) consecutive days beginning on Sunday at 12:01 am and ending on Saturday at 11:59 pm.

#### **4.0 Permits, fees, and permit restrictions**

##### **All fees subject to change by the Select Board annually**

##### **4.1 Types of permits:**

Shellfish permits shall be of three (3) types: *commercial permits (class five)*, whereby the holders thereof may sell the shellfish taken under such permits, *recreational permits (class one, two, four and six)*, whereby the holders thereof may **not** sell shellfish taken under such permits; and *apprentice permits*, as described in section 4.8.

##### **4.2 Possession of permit:**

All persons are prohibited from taking eels (except by hook and line), sea worms or shellfish from the coastal waters of the Town without a shellfish permit. Whoever violates any provision of the subsection shall be punished by a fine of two hundred dollars (\$200).

##### **4.3 Transferability and carrying of permit**

Shellfish permits are not transferable and shall be carried while shellfishing. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50)

##### **4.4 Display of permit upon demand**

All persons taking, carrying away, or having in their possession shellfish of any kind in any boat, vehicle, or container shall exhibit, on demand of the Shellfish Constable and his/her designees, Cape Cod National Seashore Park Rangers, Environmental Police Officers and any Police Officer of the Town of Eastham their permit to take such shellfish. Whoever violates any provision of this sub-section may have their permit to shellfish in the Town of Eastham suspended for a period of no less than seven (7) days, subject to the provision of section 7.3

##### **4.5 Commercial permit eligibility:**

No person shall be eligible to apply for a *commercial* shellfish permit unless he or she has been domiciled in the Town of Eastham or Orleans for twelve (12) months preceding the date of application. *Commercial permits* shall be forfeited immediately to the Natural Resources Department if the holder fails to continue

his/her domicile within either municipality. In the case of hardship, temporary retention or issuance of permit may be allowed subject approval of the Select Board based on the recommendation of the Shellfish Constable. A hardship request must be made prior to the *commercial permit* application deadline March 31<sup>st</sup>, as described in section 4.7. A minimum of three (3) of the following six (6) documents must be included annually with the *commercial permit* application for proof of residency/domicile:

- 1.) A current motor vehicle driver's license;
- 2.) A current motor vehicle excise tax bill issued by the Town;
- 3.) A current real estate tax bill issued by the Town;
- 4.) A current lease or rental agreement of the applicant's residence/domicile in the Town;
- 5.) A current listing on the Town census;
- 6.) Or any other documentation as approved by the Shellfish Constable.

Documents provided with PO Box numbers will not be accepted as proof of residency. The address on the documents must be a physical address and shall be consistent with all other documents provided.

**4.6 Shellfishing rights of residents of Eastham & Orleans:**

Domiciled persons of Eastham shall enjoy the same right to the shellfisheries of Orleans as they enjoyed from the incorporation of the Town, after first obtaining a permit from the Town of Orleans. Domiciled persons of Orleans shall enjoy the same right to the shellfisheries of Eastham as they enjoyed from the incorporation of the Town, after first obtaining a permit from the Town of Eastham.

**4.7 Commercial permit and apprentice permit issuance and fees:**

Applications for *commercial permits* and *apprentice permits* shall be submitted to the Natural Resources Department starting January 1<sup>st</sup> through March 31<sup>st</sup> annually. Applications are subject to a thirty-day (30) review period. Said permit shall be valid until 11:59 p.m. March 31<sup>st</sup> of the following year and shall be valid only for the person for whom it was issued. A *commercial permit* is valid only in the waters, flats, and tidal creeks of Eastham. The fee for a *commercial permit* for persons fourteen (14) years of age to sixty-nine (69) years of age shall be two hundred dollars (\$200). The fee for a *commercial permit* for persons seventy (70) years of age or older shall be twelve dollars (\$12). *Apprentice* permits are free.

**4.8 Free apprentice permits:**

Persons who have not yet reached fourteen (14) years of age on the date of application, who are domiciled, subject to the provision of section 4.5 may be issued a free *apprentice permit*. Said permit will allow the person to assist a duly licensed commercial harvester in the taking of shellfish provided that the limit for the harvest shall not exceed that of one (1) permit holder. Said *apprentice permit* holders who reach the age of 14 years during the period between April 1<sup>st</sup> and

December 31<sup>st</sup> of the same year may then be issued a *commercial permit* at the cost of a *commercial permit* for the remainder of the calendar year subject to full digging privileges and harvest limits, subject to the provision of section 4.7.

4.9 **Dual permit prohibition:**

No person holding a *commercial permit* shall hold, at the same time, a *recreational permit* for the taking of shellfish. Whoever violates any provision of the sub-section shall be punished by a fine of fifty dollars (\$50).

4.10 **Commercial permit required for dredging:**

Each person actively engaged in the dredging of shellfish in Cape Cod Bay in Eastham shall hold a *commercial permit* issued by the Town of Eastham. For the purposes of this regulation, “actively engaged” shall be defined as handling, harvesting shellfish or operating harvesting gear. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).

4.11 **Planting or transplanting without a permit:**

No person shall plant, place or transplant shellfish in or onto the waters or shellfish areas within the Town of Eastham without first obtaining a permit from the Eastham Select Board upon recommendation of the Shellfish Constable. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

4.12 **Recreational permit issuance and fees:**

4.12(a) A **class one** recreational permit may be issued to domiciled persons of the Town of Eastham or Orleans and for persons not domiciled but owning real estate within the Town of Eastham. Twenty-Five Dollars (\$25)

4.12(b) A **class two** (senior) recreational permit may be issued to an individual domiciled in the Town of Eastham or Orleans and for an individual not domiciled but owning real estate within the Town of Eastham sixty-five (65) years of age or over. Twelve Dollars (\$12)

4.12(c) A **class four** recreational permit may be issued for persons not owning real estate in the Town of Eastham or Orleans nor renting lodging in the Town of Eastham. Seventy-Five Dollars (\$75)

4.12(d) A **class six** recreational permit may be issued for any persons, *which will be valid for a period of seven consecutive days*. Thirty Dollars (\$30)

4.12 (e) Replacement shellfish permit for ALL classes; Seven Dollars (\$7)

4.12(f) The Town shall not charge a veteran a fee greater than the fee charged to a resident of such city or town as specified in M.G.L. Chapter 130 Section 52.

4.12(g) **Recreational permits will be issued July 1<sup>st</sup> of every year and shall be valid until June 30<sup>th</sup> of the following year, unless sooner suspended or revoked or otherwise designated.**

4.12(h) **Only ONE (1) recreational permit may be issued per household.**

## **5.0 General regulations**

**All catch limits can be set by the Select Board annually.**

### **5.1 Enforceability:**

The Shellfish Constable and his/her designees shall be empowered to enforce all applicable sections of Chapter 130 of the Massachusetts General Laws and 322 CMR of the Massachusetts Division of Marine Fisheries pertaining to shellfish in the Town of Eastham.

### **5.2 Display of shellfish upon demand:**

All persons taking, carrying away, or having in their possession shellfish of any kind in boat, vehicle, or container shall exhibit, on demand of the Shellfish Constable and his/her designees, Cape Cod National Seashore Park Rangers, Environmental Police Officers and any Police Officer of the Town of Eastham, all shellfish in their possession for inspection. Whoever violates any provision of this sub-section, in addition to any penalties specified in M.G.L. Chapter 130, may have their permit to shellfish in the Town of Eastham suspended for a period of no less than seven (7) days subject to the provisions of section 7.3 herein. Whoever throws or dumps overboard or into the water shellfish contained within a pail, bag, barrel or other receptacle, after having been requested or signaled by the Shellfish Constable or his/her designees to stand by for inspection shall be deemed to have violated this sub-section.

### **5.3 Seizure of shellfish:**

All shellfish taken, held, possessed or dealt with contrary to any section or sub-section of these regulations made under authority thereof may in addition to any or all of the penalties contained therein, be seized, photographed, destroyed or returned to the waters of the Commonwealth by the Shellfish Constable or his/her designees.

### **5.4 Closed areas:**

The Select Board may restrict the use of areas for the taking of all shellfish as they deem expedient, either absolutely or generally or for some particular use, or for the taking of certain kinds of shellfish only and allowing other kinds to be taken from such restricted areas, and such restrictions shall have the same force and effect as any rule or regulation made herein. No shellfish shall be taken from any area waters of the Town of Eastham unless such areas have been declared open for taking of shellfish by the Select Board. Shellfish areas that have been classified as "Prohibited", "Restricted", or "Conditionally Restricted" by the

Massachusetts Division of Marine Fisheries or the Massachusetts Department of Public Health shall also be considered closed for the taking of all shellfish by the Eastham Select Board. All private shellfish grant sites shall be closed for harvesting of shellfish by anyone other than the lessee or their agents. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200)

**5.5 Restricted Areas:**

The area of Salt Pond, Salt Pond River and an area of 1,000 feet to the Southerly side of Hemenway Landing shall be restricted to recreational limits regardless of the type of permit held. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

**5.6 Restricted methods:**

The taking of clams, quahogs, razor clams, oysters or mussels from the waters and flats of the Town of Eastham by any other method than what is commonly known as the “long rake”, “scratcher”, “tong”, “pitchfork”, “plunger”, “clam hoe”, or “salting (for razor clams only)” is prohibited unless the taker has a permit issued by Select Board upon recommendation of the Shellfish Constable. No shovel, spade, trowel or other edged tool may be used in the harvesting of shellfish. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).

**5.7 Possession of seed shellfish:**

No person shall take or have in their possession seed mussels or clams less than two (2) inches in longest diameter, or seed oysters less than three (3) inches in longest diameter, or seed razor clams less than five (5) inches in longest diameter, or seed quahog less than one (1) inch in thickness, or whelk less than two and three-quarters ( $2\frac{3}{4}$ ) inches shell width, or seed scallop as defined in section 6.3(e), exceeding five percent (5%) by number of any batch. All shellfish shall be culled immediately at the location of harvest and all seed shall be returned to the water from the immediate area from which it was taken. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200) per offense.

**5.7(a) Only someone who is a licensed aquaculturist in the Town of Eastham and carries a valid seed permit issued from the Massachusetts Division of Marine Fisheries may have seed in their possession as defined in sub-section 5.7**

**5.8 Shellfishing during the nighttime:**

No person shall dig, take, power dredge or carry away any shellfish or shells between the hours of one-half (1/2) hour after sunset and one-half (1/2) hour before sunrise by any method whatsoever, from any water, flat or creek of the Town of Eastham. Whoever violates any provision of this sub-section shall be punished by a fine of four hundred dollars (\$400).

**5.9 Temperature restrictions:**

No person shall harvest any shellfish, with the exception of mussels and eels when the air temperature is below twenty-eight (28) degrees Fahrenheit. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

5.9(a) The National Weather Service <https://www.weather.gov> shall be used as an accurate temperature gauge for the Town of Eastham's temperature restriction regulation.

**5.10 Backfilling holes:**

All holes dug while harvesting shellfish shall be refilled and all seed shall be replanted immediately. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).

**5.11 Digging in sedge grass:**

There shall be no digging in the sedge grass (*spartina*). Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100)

**5.12 Power dredging:**

Power dredging shall be restricted to the waters of Cape Cod Bay and to the taking of bay scallops in other town waters. The presence of a dredge overboard at any time shall be considered evidence of intent to take shellfish. The Town of Eastham prohibits hydraulic dredging, hydraulic jetting, or any similar means for harvesting of any species of shellfish within town waters. Only vessels permitted by the State to harvest surf clams (*Spisula solidissima*) may operate a hydraulic dredge in the waters of Eastham seaward of the "spire line" from Jeremy Point, Wellfleet, to the "Spire" in Brewster. Dredging for surf clams is prohibited shoreward of "the spire line" from Jeremy Point, Wellfleet, to the "Spire" in Brewster 24 hours per day/365 days per year in Eastham. A State permitted vessel hydraulically dredging for surf clams in Town waters may not retain incidental catch of any Town regulated species of shellfish. A vessel with the means to operate a hydraulic dredge on board shall not possess any Town regulated species of shellfish besides surf clams in the Town of Eastham. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

**5.13 Landing of shellfish:**

All shellfish commercially harvested in the Town of Eastham shall be landed at the following locations unless the Shellfish Constable is notified in writing of an alternate location at least twenty-four (24) hours prior to landing: Cove Road Landing, Goose Hummock Landing, Asa's Landing, Snow Shore Landing, Priscilla Landing, Mill Pond Landing, Tonset Road Landing, Collins' Landing, Hemenway Landing, or Salt Pond Landing in the Nauset estuary; Rock Harbor in Cape Cod Bay. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

**5.14 Recreational permits catch limits:**

5.14(a) The taking of quahogs, clams, mussels and oysters by recreational permit holders shall not exceed one (1) level ten-quart peck clam basket per week, except for eels by spear, and sea worms which shall not exceed twenty-five (25)

5.14(b) The following catch limits shall apply to the harvest of scallops:

5.14(b)i In addition to other shellfish harvested, recreational permit holders shall be allowed one (1) bushel of scallops per week.

Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).

**5.15 Commercial permit catch limits:**

5.15(a) No person having a valid commercial permit from Eastham or Orleans may take daily from the Nauset estuary or Cape Cod Bay in excess the following: two (2) bushels of quahogs with the option of two (2) additional separate bushels of strictly chowder quahogs; ten (10) bushels of mussels; ten (10) bushels of ark clams (including shells); or may take weekly one (1) level ten-quart peck clam basket of oysters in recreational area only. (Limits for mussels and soft-shell clams will be periodically reviewed and set by the Select Board)

The total limit for commercial power dredging of quahogs (*Mercenaria mercenaria*) in Cape Cod Bay shall not exceed thirty-five (35) bushels per trip per boat per day and must be landed at Rock Harbor except by written permission from the Shellfish Constable or his/her designees.

Such limits shall be subject to resource assessments. No such permit holder shall have in their possession while in, or on, or adjacent to the waters or flats of the town or at any landing within the town, shellfish in excess of the limits specified in this paragraph.

5.15(b) The following catch limits shall apply to the harvest of scallops:

5.15(b)i The daily limit for commercial permit holders in Cape Cod Bay shall be ten (10) level totes per day per permit holder, and there shall be a maximum of two (2) permit holders allowed per boat. If two (2) limits are to be harvested, both commercial permit holders must be actively engaged in the harvesting. For the purposes of this regulation, “actively engaged” shall be defined as handling or harvesting scallops or operating harvesting gear.

5.15(b)ii The daily limit for commercial permit holders in Nauset estuary shall be five (5) level totes per day per permit holder and there shall be a maximum of two (2) permit holders allowed per boat. If two (2) limits are to be harvested, both commercial permit holders must be actively engaged in the harvesting. For the purposes of this regulation, “actively engaged” shall be

defined as handling or harvesting scallops or operating harvesting gear.

5.15(c) The following catch limits shall apply to the harvest of razor clams:

5.15(c)i The daily limit for commercial permit holders shall be three (3) bushels.

Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

**5.16 Registration of commercial boats:**

Any boat engaged in commercial fishing in the Town of Eastham shall be registered or documented in the Town of Eastham or Orleans, and the owner shall have a valid commercial permit issued by the Town of Eastham. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).

**6.0 Specific regulations**

**6.1 Mussels, culling, dredging, restricted areas:**

6.1(a) All mussels shall be culled and all mussels less than two (2) inches in longest diameter shall be returned to the water in the area from which they were taken.

6.1(b) Mussels may be harvested from the waters of Nauset Marsh and Town Cove by power dredging from October 1st to March 31<sup>st</sup> if a permit has been issued by the Select Board upon the recommendation of the Shellfish Constable. A fee may be set and charged by the Select Board for said permit.

Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).

**6.2 Eels; methods, registration, obstruction or interference:**

6.2(a) No person shall have in possession any eels less than nine (9) inches in overall length.

6.2(b) Eels may be taken only by pot, trap, hook and line, or spear. No other methods shall be employed except if a permit has been issued by the Select Board upon the recommendation of the Shellfish Constable. A fee may be set and charged by the Select Board for said permit.

6.2(c) Any person who sets five (5) or more pots or traps must hold a valid Eastham commercial shellfish permit. All pots or traps for eels shall be registered annually with the Eastham Natural Resources Department. The name of the permit holder shall be plainly marked on all pots, traps, cans and buoys. Buoys shall be painted with a color scheme approved by the Natural Resources Officer for identification.

- 6.2(d) No freshwater lakes, river, ponds, creeks, bogs or any saltwater estuary may be obstructed in any way so as to interfere with the habits and migration of eels.

Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).

**6.3 Scallops; seasons, hours, totes requirements, landings, possession of seed, etc.**

- 6.3(a) The following seasonal restrictions shall apply to the harvest of scallops by any commercial or recreational permit holder:
  - 6.3(a)i The waters and flats of Cape Cod Bay in the Town of Eastham shall be open for the taking of scallops annually from October 1<sup>st</sup> through March 31<sup>st</sup> of the following year. The taking of scallops is prohibited in Cape Cod Bay between April 1<sup>st</sup> and September 30<sup>th</sup> inclusive. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).
  - 6.3(a)ii The waters and flats of the Nauset estuary shall be open for the taking of scallops annually from the third Sunday in October through March 31<sup>st</sup> of the following year. The taking of scallops is prohibited in the Nauset estuary between April 1<sup>st</sup> and the third Saturday in October, inclusive. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).
- 6.3(b) Hours for scalloping shall be from one-half (1/2) hour before sunrise to 4:00 PM, seven (7) days per week. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).
- 6.3(c) All scallops taken by a commercial permit holder must be landed in plastic totes measuring eighteen (18) inches long by twelve (12) inches wide by ten and five-tenths (10.5) inches deep, inside measurements, and containing two thousand two hundred sixty-eight (2,268) cubic inches. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).
- 6.3(d) All scallops taken from the waters of Cape Cod Bay shall be landed at Rock Harbor except by written permission in advance from the Shellfish Constable. Scallops taken from Nauset Marsh and Town Cove shall be landed at Collin's Landing, Hemenway Landing, Salt Pond Landing, Cove Road Landing, Goose Hummock Landing, Asa's Landing, Snow Shore Landing, Priscilla Landing, Mill Pond Landing and Tonset Road Landing. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).
- 6.3(e) All scallops taken from the Town of Eastham waters shall be scallops with a well-defined, raised annual growth ring and that ring shall measure at

least 10 mm from the hinge of the shell. Any scallop that does not meet the aforementioned requirements in the opinion of the Shellfish Constable shall be deemed a seed scallop and shall be returned to the water immediately. Whoever violates any provision of this sub-section shall be punished in accordance with section five (5) subsection seven (7).

- 6.3(f) All scallops shall be taken to the shore in the shell. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).
- 6.3(g) The presence of a scallop dredge overboard at any time shall be considered evidence of intent to take scallops.
- 6.3(h) Scallop dredge frames used in Nauset Marsh and Town Cove shall not measure more than thirty-six (36) inches in width and shall be of light construction type. The maximum width of drag in Cape Cod Bay shall be sixty (60) inches. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).
- 6.3(i) No scallops may be taken by scuba, snorkel, or by any other means of diving in those areas which are open to dragging in Nauset Marsh and Town Cove. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).
- 6.3(j) Any boat used for commercial scalloping in the Town of Eastham shall make only one (1) trip per day. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).
- 6.3(k) No shellfish permit holder (*commercial or recreational*) shall land scallops and return to the waters for the purpose of additional scalloping without written permission from the Shellfish Constable. Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

6.4 **Razors Clams; methods of harvest:**

- 6.4(a) The harvesting of razor clams by salting is allowable provided there are no other species (such as soft-shelled clams or quahogs) within the inter-tidal zone of a given area. Areas of mixed species will be assessed and determined in the sole and unfettered discretion of the Shellfish Constable. Dry salting (salt not in a water solution), broadcast salting (spreading dry salt over a tidal flat), or spraying of any other solution is prohibited. Whoever violates any provision of this sub-section shall be punished by a fine of one hundred dollars (\$100).

6.5 **Oysters; harvesting season**

- 6.5(a) The harvest of oysters shall be prohibited annually from May 1 through October 31, inclusive. Whoever violates any provision of this sub-section shall be punished by a fine of fifty dollars (\$50).

**6.6 Whelks/Conchs:**

6.6(a) In this regulation, whelk/conch refers to either knobbed whelk (*Busycoma carica*) or channeled (smooth) whelk (*Busycotypus canaliculatus*). (See CMR 322 Section 6.21: Minimum Size for Conch.)

6.6(b) The harvesting of whelk shall be prohibited annually from December 15 through April 14, inclusive. All whelk harvested shall be returned to shore in the shell.

Whoever violates any provision of this sub-section shall be punished by a fine of two hundred dollars (\$200).

**6.7 Horseshoe crabs:**

6.6(a) Being in possession of horseshoe crabs for any reason requires a State permit. (See CMR 322 Section 6.34: Horseshoe Crab Management).

**7.0 Violations and penalties**

Pursuant to Massachusetts General Laws: Chapter 40 – (Powers and Duties of Cities and Towns), Section 21D – (Non-criminal disposition of ordinance, by-law, rule or regulation violations) the following regulations do apply:

**7.1 Violations and penalties**

Whoever violates any rule or regulation made under authority of Chapter 130, General laws of Massachusetts, unless otherwise provided, shall be punished by a fine of not less than fifty dollars (\$50), nor more than one thousand dollars (\$1000). Chapter 130, Section 2. Town By-Laws affords enforcing persons an additional option of enforcing these rules and regulations by non-criminal disposition. If the method of non-criminal disposition is used by an enforcing person, the specific penalties for a violation of these rules and regulations shall be:

Possession of permit-----	200
Transferability of permit-----	50
Dual permit prohibition-----	50
Commercial permit required for dredging-----	100
Planting/transplanting without a permit-----	200
Closed areas-----	200
Restricted areas-----	200
Restricted methods.....	100
Possession of seed shellfish (per batch)-----	200
Shellfishing during the nighttime-----	400
Temperature restrictions-----	200
Clam holes shall be filled-----	50
Digging in sedge grass-----	100

Power dredging-----	200
Landing of shellfish-----	200
Catch limits (recreational)-----	50
Catch limits (commercial)-----	200
Registration of commercial boats-----	50
Mussels (6.1(a)-6.1(b))-----	100
Eels (6.2(a)-6.2(d))-----	100
Razors (6.4)-----	100
Oysters (6.5)-----	50
Whelks (6.6(a)-6.6(b))-----	200

**Scallops**

Closed season-----	100
Hours-----	200
Landing in totes-----	50
Landing locations-----	200
Possession of seed (per batch)-----	200
Landing in shell-----	200
Dredge frame sizes-----	50
Snorkeling/diving-----	100
One trip per day per boat-----	100
Returning to waters prohibited-----	200

**Each day's continued violation shall constitute a separate offense.**

**7.2 Enforcing persons**

The foregoing regulations shall be enforced by, the Shellfish Constable and his/her designees, Cape Cod National Seashore Park Rangers, Environment Police Officers and any Police Officer of the Town of Eastham.

**7.3 Suspension of commercial and recreational permits:**

The Select Board may suspend or revoke, for cause, any commercial or recreational permit granted by them for such times, as they shall deem proper. Notice, in writing, shall be given to the permit holder of said suspension. Said suspension shall occur provided that the suspension or revocation of the right to shellfish in either Eastham or Orleans shall result in the suspension or revocation of the right to shellfish in both towns during the period of any such suspension or revocation. Any person whose permit has been suspended shall return to the same office of the Town Clerk of the town which issued the permit, where the permit shall remain until the period for which it was suspended has expired. No fee

received for a shellfish permit which has been suspended or revoked and canceled shall be refunded.

*This policy (Shellfish Regulations) was revised at a public hearing on June 17<sup>th</sup>, 2024.*