

# REGULATIONS FOR THE TAKING AND CULTURE OF SHELLFISH

## SECTION 1. AUTHORITY

By the authority vested in the Selectmen by Chapter 130, Section 52 of the Massachusetts General Laws and by vote of the Town at an annual Town Meeting held February 10, 1948 authorizing the Selectmen of said Town, the Selectmen do hereby vote this \_\_\_\_\_, 2017 to rescind and repeal any and all former regulations and amendments and to adopt the following regulations effective \_\_\_\_\_, 2017.

## SECTION 2. SHELLFISH TAKING AND POSSESSION

A. No person shall take from the waters and flats of the Town of Edgartown any shellfish, sea worms, crabs, mussels or conch without a permit or license from the Board of Selectmen.

B. All license holders must be a permanent resident of the town of Edgartown (length of residence).

### 1. Commercial shellfish licenses

Licenses may be purchased at any time during the year and shall be valid from the date of purchase until the following April 1st with an option to renew every year for a total of three (3) years from the date of expiration (i.e. the license may be renewed without re-application for three years (3) from the date of expiration.

### 2. Family permits

Permits may be purchased at any time during the year and shall be valid from date of purchase until the expiration date shown on the permit, a person must have attained age eighteen (18) to obtain a Family Permit.

C. No person shall be granted any such permit or license unless such person agrees (and the acceptance of such permit or license shall constitute such agreement) that they will display any shellfish, seas worms, mussels or conch in their possession at any time to any Shellfish Constable or appointed Deputy. Failure to do so upon request by any Shellfish Constable or appointed Deputy may result in revocation or suspension of shellfish licenses or permit.

D. All shellfish, except commercially fished scallops, clams and oysters and family fished scallops as hereinafter noted, shall be held, transported and stored in Town or State certified containers either one half (1/2) bushel or one (1) bushel wire baskets or 1 bushel plastic containers. Family permit holders are to use one half (1/2) bushel wire baskets except in the case of fishing for scallops when ten (10) gallon plastic wash baskets may be used. Commercially fished scallops, clams and oysters shall be held, transported and stored in 10 gallon plastic wash baskets.

E. Storm washed scallops may be salvaged only when they are high and dry on the

beach. The sale of salvaged scallops is strictly prohibited under State Law and Town Regulations.

F. When these Regulations refer to a washbasket, it is a level, ten (10) gallon plastic washbasket including shells determined at the discretion of the warden or deputies.

### SECTION 3. SHELLFISH LANDING AREAS

1. Wilson Place Landing at Great Pond
2. Edgartown Wharf at the foot of Main Street
3. Katama Boat Ramp
4. Edgartown-Oak Bluffs Bridge or Boulevard Landing in Sengekontacket
5. Dyke Bridge
6. Eel Pond Boat Ramp
7. North Wharf

All family permit holders must take their catch by land or water to the nearest available landing area to be inspected by a Shellfish Constable or Deputy. All commercial permit holders must take their catch by land or water to Area #7 North Wharf (or a location designated by the Shellfish Constable or Deputy) to be inspected by a Shellfish Constable or Deputy. All commercial and family permit holders must have their permit and a valid picture ID on their person at all times when shell fishing or transporting their catch and at time of inspection.

### SECTION 4. SHELLFISH SIZES AND SEASONS

The following sizes and seasons are subject to change at any time by Town, State or Federal regulation.

- A. Soft Shell Clams: not less than 2" across the widest part.  
April 1 through March 31.
- B. Quahogs: not less than a 1" width across the hinge.  
April 1 through March 31.
- C. Scallops: Must comply with State regulation size limit;  
Must display a well defined raised Annual Growth line 10mm from the shell umbo otherwise the scallop must be 2 1/2 in. in diameter at the widest part (see Attachment)  
Family Permit: October 1 to March 31.  
Commercial License: About November 1 to March 31, the exact date of the start of the Commercial season will be announced prior to November 1.
- D. Oysters: not less than 3" across the widest part.

September 1 to April 30.

E. Surf Clams: Not less than 4" across the widest part.  
April 1 through March 31.

F. Mussels and Ocean Quahogs: No size requirements.  
April 1 through March 31.

G. Conch: Must conform to State Regulation,  
May 1 through December 15.

H. Sea worms: no size or season limits.

I. Razor Clams - Not less than 5"  
Year Round

## SECTION 5. FAMILY PERMITS AND REGULATIONS

A. Definition of a family: A family permit is for the use of the applicant, spouse, and minor children living in the same household. Guests may help with the harvest provided only one basket or container is used by the permit holder at any one time. One limit is allowed per permit holder per time.

B. All Family permits follow the applicant and not the residence, tenant or guest.

C. Definition of a week: For limit purposes, the week shall begin at 12:01 A.M. on Monday and shall run through Midnight the following Sunday.

D. A family permit may not be used to fish more than once a week for any and all species of shellfish. A family permit holder shall not take more than one half (1/2) bushel of any and all species of shellfish during said week except for Bay Scallops. The Bay Scallop limit shall be no more than one (1) level 10 gallon plastic washbasket including shells determined at the discretion of the warden or deputies per week in season.

E. All family permit holders must:

1. Have their family permit in their possession while shell fishing.
2. Must have a shellfish measure in their possession while shell fishing.
3. Must have a positive picture identification on their person while shell fishing.

Shell fishing with a family permit issued to someone other than a parent of a minor child fishing or the spouse of the person fishing is prohibited. Such persons fishing must be resident in the same household as the permit holder and must have the holder's permit on their person while fishing.

F. Family permits shall be valid for taking all allowed species of shellfish from date of issue to the date of expiration shown on the permit in accordance with the season and size limits listed in Section 4 of these regulations.

G. Wading for scallops by a Family Permit holder is permitted unless the Shellfish Constable is of the opinion that the area is a scallop seed area.

H. All shellfish caught in Edgartown waters must be landed in one of the designated areas listed in Section 3 of these regulations.

I. Fishing with Family Permit will be allowed between the hours of 7:00 A.M. and 5:00 P.M.

J. Any quahog rake greater than thirteen (13) inches across the back of the rake is prohibited in Family recreational areas.

K. Shellfish harvested under a family permit may not be sold.

J. Family Permit Fees:

Edgartown Permanent Resident.....	\$50.00
Edgartown Permanent Resident over age 60 years.....	Free
Non-Resident Yearly.....	\$250.00
Non Resident Yearly over age 60 years.....	\$125.00
Non-Resident Per Week.....	\$50.00

SECTION 6. COMMERCIAL LICENSES AND REGULATIONS

A. During the period of June 1 through the following May 31 a person may purchase a Commercial License to take shellfish under the following conditions: They are sixteen (16) years of age or older. They are full time permanent residents of the town of Edgartown. Each applicant shall fill out and get notarized an application form provided by the Selectmen's office. Attached to the application form shall be a copy of:

1. Documentation that the applicant is a full time permanent resident of the Town of Edgartown. This may be a current real estate tax bill, mortgage or lease or a copy of a valid motor vehicle registration, or other government identification. A driver's license is not acceptable as the sole form of residency proof. In cases where the applicant lives with their parent(s) or guardian, a notarized statement by a parent or guardian that the applicant is a permanent resident of the Town of Edgartown is acceptable. The burden of proof always remains with the applicant.
2. Automobile Registration if applicable.

3. Boat Registration if applicable
4. Note, any license may be denied or revoked for non payment of taxes, fees, assessments, betterments or other municipal charges or violation of any agreement with the Town of Edgartown.
5. Applicants for their first license must appear in person before the Shellfish Committee to be interviewed. The time period for review is thirty (30) calendar days. The applicant must bring all required documentation to this meeting.
6. Applications are available in the Selectmen office in the Town Hall. The Shellfish Committee meets twice monthly—specific date and time are regularly posted at Town Hall and on the Town website.
7. A commercial license is valid upon payment of the fee of \$350.00 and completion of a signed statement by the applicant that he/she has received a copy of the Edgartown Shellfish Regulations and agrees to read and abide by those Regulations. This fee covers all allowed species and is subject to change.
8. Permanent residents of Edgartown age 60 and over may receive a free Commercial License.
9. It is forbidden during the course of the application process to reduce any Town Hall employee to tears.

B. Holidays: No commercial fishing is allowed on Thanksgiving or Christmas Day.

C. A Commercial License holder is only entitled to fish under the terms of a Family Permit on limits and conditions on any species for which the license holder is not commercially fishing.

D. When a Commercial License holder is harvesting shellfish for another Family Permit holder, that holder must be present when the day's catch is checked in. If the permit holder is physically unable to be present due to illness or disability, permission from the Shellfish Constable must be obtained each time before harvesting shellfish.

E. A Commercial fisherman shall make no more than one round trip per day per species with no more than two (2) licensed commercial fishermen per boat.

F. Commercial harvesting of shellfish using SCUBA gear is prohibited.

G. Wet storage of Shellfish is prohibited.

H. The transfer of shellfish from one boat to another is prohibited.

I. Shell fishing between sunset and sunrise is prohibited.

J. Oyster Pond is closed to all shell fishing except for the propagation of seed by the Shellfish Constable.

K. Commercial scallop harvesting by dredge within the bays and harbors of the Town of Edgartown will be closed on any day in which the air temperature does not exceed thirty degrees Fahrenheit (30°F) by 10:00 A.M as determined by the Shellfish Constable or Deputy. Scallops may be harvested commercially on a Saturday of a week during which the air temperature did not exceed thirty degrees Fahrenheit (30°F) by 10:00AM on any day, Monday through Friday of said week provided that the air temperature exceeds thirty degrees Fahrenheit (30°F) by 10:00 A.M on said Saturday.

L. Scallops shall not be culled at a distance less than 100 Feet from the nearest shoreline.

M. Katama Bay is closed to all species of Commercial shellfishing except scallops from December 30 through March 15.

N. Missing signs: The harvesting of shellfish is prohibited in areas so posted by the Shellfish Constable, regardless of the fact that weather or other circumstances may from time to time remove signage, it is the responsibility of each Commercial License holder to become familiar with all closed areas. Missing signage should be reported to the Shellfish Department.

## SECTION 7. COMMERCIAL SPECIES LIMITS AND HARVEST REGULATIONS

All washbasket limits include shells and are determined at the discretion of the Constable or Deputies.

### A. Soft Shelled Clams:

1. Shall not exceed three (3) level ten (10) gallon wash baskets including shells per license per day.
2. Hydraulic harvesting is only allowed by Shellfish Committee and Constable permission.
3. Hand digging for soft shell clams is permitted from sunrise to sunset.

### B. Quahogs:

1. Shall not exceed eight (8) level ten (10) gallon washbaskets including shells per license per day. Of which no more than two (2) wash baskets shall be of a size known as "Littlenecks" and no more than two (2) wash baskets shall be of a size known as "Cherrystones".

2. Shall be harvested by rakes and poles only between sunrise and sunset. Katama Bay is closed to all Commercial quahog harvesting from December 30 to March 15 annually.
3. Dry Power Dredging for quahogs is prohibited.

C. Bay Scallops:

1. May be harvested commercially from about November 1 through March 31 between the hours of 7:00 A.M. and 4:00 P.M. Monday through Friday. All boats must be in at the Scallop Landing area (see Section 3) by 4:30 P.M.
2. The Commercial daily limit for Bay Scallops shall be set annually by the Shellfish Committee and the Constable or Deputies.
3. Wading for Bay Scallops commercially is prohibited.
4. Scallop dredges shall not exceed thirty-six (36) inches in width and must not have a dry weight in excess of seventy-five (75) lbs. Dredges must not have any lead in their construction and must be individually tied to the boat (gang dredges are prohibited).

D. Oysters:

1. The Commercial daily limit shall be set annually by the Shellfish Committee and the Constable or Deputies.
2. May be harvested commercially at the discretion of the Committee, and subject to annual review.
3. Shall be harvested only with rakes and poles.
4. Shall be harvested from Edgartown Great Pond only at the discretion of the Committee subject to annual review and only by hand.

E. Conch:

Conch pots must be fished by the pot owner.

F. Surf Clams, Ocean Quahogs and Mussels:

1. Shall not exceed one hundred (100) bushels per species per license per day. Harvesting must take place between sunrise and sunset.
2. Shall be harvested with dredges with blade widths of no more than thirty-six (36) inches.
3. These Commercial Regulations shall apply to the Ocean Shellfish Resource Envelope which shall be designated as that area of the water lying between the Town's three (3) mile limit and the south and east beaches of Edgartown and that area of water lying outside of a straight line drawn from the Edgartown Bridge on State Beach and the lighthouse on Cape Pogue Chappaquiddick Island.

SECTION 8. GENERAL PENALTIES (APPLIES TO ALL LICENSES AND PERMITS)

A. Whoever takes any shellfish or sea worms from the beds in said Town without a Family Permit or Commercial license shall be liable to a penalty of one hundred dollars (\$100.00) or arrest without a warrant.

B. Any person taking shellfish, other than adult shellfish, as defined in SECTION 4 above, from the flats and tide waters (note that for the purpose of these REGULATIONS Edgartown Great Pond shall be considered a tide water at all times) of said town shall be liable to a penalty of loss of license or permit for a period of not more than one year unless such person immediately returns them alive to the tide water which is at least three (3) feet deep at mean low tide.

C. No person, except for persons holding valid aquaculture licenses, is allowed by law to take from the waters of said Town or to sell or offer for sale or to have in his or her possession soft shell clams, quahogs oysters, scallops or surf clams that do not meet the size requirements of SECTION 4 above.

D. Whoever takes shellfish from the tide waters and flats, including Great Pond, within said Town shall have the required licenses or permit consistent with the Massachusetts General Laws and Edgartown Shellfish Regulations in their possession at all times when fishing or transporting their catch.

E. Any person aggrieved by a decision of the Selectmen shall have the right to a full and fair hearing as follows: the person shall appear before the Shellfish Committee which will hear the complaint and recommend action to the Board of Selectmen which shall then hold a public hearing.

SECTION 9. COMMERCIAL LICENSE PENALTIES

A. Any person having such Commercial license (and acceptance of said license shall constitute agreement) for the taking of shellfish and who violates any laws of the Commonwealth or any regulations made by the Edgartown Selectmen relating to shellfish or Shell fishing in said Town shall be subject to the following penalties:

1. First citation;

Violators of these regulations shall pay a \$100 fine.

2. Second citation;

Violators of these regulations shall have their licenses automatically suspended for a period of one (1) to five (5) fishable day.

3. Third citation;

Violators of these regulations must appear before the Board of Selectmen. Said Board at a fair and open hearing may, upon recommendation of the



Shellfish Constable or Deputy Shellfish Constable and Shellfish Committee have such license suspended for a period of ten (10) to thirty (30) fishable days.

4. Fourth citation;

Violators of these regulations must appear before the Board of Selectmen. Said Board at a fair and open hearing may, upon recommendation of the Shellfish Constable or Deputy Shellfish constable and Shellfish Committee depending on the and severity of the offense shall have such license suspended for a period from sixty (60) to one-hundred-eighty (180) fishable days at the Board's sole discretion.

5. Severe offenses which shall include but are not limited to: stealing, failure to display (hidden caches), fishing in closed areas, or critical harvest of seed, could incur penalties to be determined at the discretion of the Shellfish Constable, or Deputy Shellfish Constable and the Shellfish Committee.

B. If a license suspension carries beyond the close of the season of the species being harvested, the balance of the suspension remaining shall be carried over to that species next season.

C. If there are no subsequent offenses during a three (3) year period starting with the date of the last offense, the individual will be considered to have a clean slate.

#### SECTION 10. EDGARTOWN AQUACULTURE LICENSE REGULATIONS

A. Licenses will be granted by the Board of Selectmen for cultivation of indigenous shellfish species only: soft-shelled clams, hard-shelled clams, bay scallops, American oysters, blue and ribbed mussels.

B. Licenses will be granted only to individuals who are permanent full time residents of Edgartown and are non-transferable other than to applicant's spouse or applicant's children.

C. Licenses will be granted for a period of three (3) years. At the end of each year of the period, the licensee may apply for renewal for the next three (3) years. Proof of the use of the license is required for renewal. The Shellfish Constable shall determine active use of the license.

1. Any voluntary non-renewal or non-renewal for lack of use of the license shall require the removal of all equipment from the lot or sale to the next license/lease holder by the end of the license/lease period.

D. The Edgartown Board of Selectmen will set the annual fee for Aquaculture Licenses. The annual fee will be not less than five dollars (\$5.00) and not more than twenty-five dollars (\$25.00) per acre.

#### SECTION 11. EDGARTOWN AQUACULTURE LICENSE POLICY

A. The total licensed area in each pond or bay will be limited to one percent (1%) of the acreage of that pond or bay.

B. Licenses may be granted in ponds and bays and in outside waters: one (1) acre maximum in ponds and bays, ten (10) acre maximum in outside waters; limit of two held by one individual and no more than eleven (11) acres in total size.

1. All farms in Katama Bay shall be three hundred (300) feet by one hundred fifty (150) feet.
2. All farms in Middle Flats/Outer Harbor shall be two (2) acres.
3. Dimensions and locations of farms in other Edgartown waters shall be with the written approval of the Shellfish Committee.
4. There will be at least a fifty (50) foot buffer zone between farms to allow for boat passage.
5. The License/Lease Holder is responsible for providing, installing and maintaining four (4) hard plastic yellow cylindrical buoys approximately nine (9) inches by fourteen (14) inches to mark the corners of the farm; corner buoys shall display the lease number with two (2) inch high numbers.

C. All cages, equipment or bags shall be located within the marked farm boundaries or on the raft(s) adjacent to the farm boundaries; with the exception of upwellers which will be located with the approval of the Harbormaster.

D. All cages shall be permanently marked or tagged with the lease number.

E. Each License/Lease Holder is allowed one (1) mooring to attach a raft or rafts not to exceed a total raft area of six hundred fifty (650) square feet. In order to maintain clear boat passage the swing of the raft shall not obstruct the buffer zone.

F. There will be no overnight mooring of boats in the aquaculture area.

G. For all sub-tidal farms the only allowable visible gear on the surface of the water is:

- four (4) corner buoys,
- raft(s) not to exceed six hundred fifty (650) square feet, and
- buoys that connect to gear on the bottom;

No floating grow-out is allowed.

H. All oyster or other shellfish related operations, air-drying, and culling shall be performed at each Lease Holders marked area or on the raft(s) or boat adjacent to the farm or at the License/Lease Holder's home.

1. The only exception shall be during severe winter ice causing hazardous working conditions, at which time the Shellfish Constable and Harbormaster may authorize license holders to temporarily work within a designated area under strict timeframe at the discretion of the Constable and Harbormaster.

I. Any bay scallops within a licensed area belong to the public. Dip netting is the only method permitted for taking such scallops.

J. Any variation to this Aquaculture Policy shall first be approved by the Edgartown Board of Selectmen with the recommendation of the Shellfish Committee.

#### SECTION 11: Appendix A: Edgartown Aquaculture License Wait List Procedure For Existing Aquaculture Leases

1. Candidates must fill out an application and appear before the Shellfish Committee at one of their meetings.
2. A clerical fee of \$20 every three years will be charged for maintaining a position on the Wait List. Fee is subject to change.
3. Candidates must maintain permanent full time residency in Edgartown while on the Wait List and must be in good standing with the Town.
4. Candidates are responsible for keeping their Wait List contact information up to date.
5. Position on the Wait List would be on a first come first serve basis from the meeting appearance. The position of multiple candidates appearing at any one given meeting will be established by lottery.
6. Rights of first refusal on any lot lease go to the candidate at the top of the Wait List.
7. Once a candidate is granted a lot lease they must still go through all the usual permitting including but not limited to a hearing in front of the Board of Selectmen.
8. Wait list candidates have 30 days from notification to respond to the offer of a lot lease.
9. Wait List Candidates have 60 days from notification to obtain and submit proof of insurance.
10. A Wait List candidate can refuse a lot lease and remain at the top of the Wait List.
11. A Wait List candidate can accept a non-Katama lot lease while remaining on the top of the Wait List for a Katama lot lease; said candidate has the right of first refusal if and when the next Katama lot lease becomes available.  
- The right of first refusal on the vacated non-Katama lot lease will then go to the next Wait List candidate.

#### SECTION 12. AQUACULTURE LICENSE PENALTIES

A. The Shellfish Department is responsible for enforcing all regulations including: periodically checking the corner buoys, and verifying that plot boundaries are within regulated size, and that all cages, bags, or equipment are within the marked area.

B. Any person having such Aquaculture license (and acceptance of said license shall constitute agreement) and who violates any laws of the Commonwealth or any

regulations made by the Edgartown Selectmen relating to shellfish or Shell fishing shellfish propagation in said Town shall be subject to the following penalties:

1. A verbal warning will be issued to the License/Lease Holder, documented and reported to the Shellfish Committee by Shellfish Department staff; the License/Lease Holder has one (1) week / seven (7) days to rectify the violation.
2. If the situation is not rectified after the week/seven (7) days, the Shellfish Department staff shall issue a final and written warning giving the License/Lease Holder one (1)week / seven (7) days to rectify the violation.
3. If the situation is not rectified within the one (1) week / seven (7) days, the License/ Lease Holder will be fined \$100 per day until the violation is corrected.
4. If the situation is not rectified within the one (1) week / seven (7) days, the License/ Lease Holder will appear before the Board of Selectmen for License/Lease revocation or non-renewal.
5. Two (2) or more written warnings within a twelve (12) month period will result in the License/Lease Holder appearing before the Board of Selectmen for License/ Lease revocation or non-renewal.
6. License/Lease disciplinary Revocation or Non-Renewal will include notification to the Massachusetts Division of Marine Fisheries and requires that the License/ Lease Holder remove all equipment from the lot and/or sale to the next License/ Lease Holder if they so agree, within one year (365 days) from the date of the License/lease revocation/non-renewal. This action supercedes the term of the lease; all other regulations apply.
  - If the License/Lease Holder fails to clear the lot to the satisfaction of the Shellfish Constable, the License/Lease Holder is liable for, and the Town of Edgartown may recover, the cost of clearing the lot including but not limited to: establishment of abandonment, legal fees. transpott/haulage, disposal and staff time.
  - No purchase of seed is allowed after the date of the Revocation or Non-Renewal action.
7. The revoked plot lease will be offered to the wait list applicants in order of waitlist seniority.

**FAMILY AND COMMERCIAL SCALLOP: TAKING,  
POSSESSION, LANDING AREAS, SIZES, SEASONS, LIMITS,  
HARVEST, LICENSES, PERMITS, REGULATIONS &  
PENALTIES**

*This section is a convenient compilation of the Regulations and Penalties as they apply to Bay Scallops, all other REGULATIONS apply.*

**§3.** All commercial and family permit holders must have their permit and a valid picture ID on their person at all times when shell fishing or transporting their catch and at time of inspection.

**§4C.** Scallops must comply with State regulation size limit; Must display a well defined raised Annual Growth line 10mm from the shell umbo otherwise the scallop must be 2 1/2 in. in diameter at the widest part (see Attachment). Sizes and seasons are subject to change at any time by Town, State or Federal regulation.

**§2F.** Family and Commercial permit holders fishing for scallops are to use ten (10) gallon plastic washbaskets. These Regulations refer to a “level” ten (10) gallon plastic washbasket including shells determined at the discretion of the warden or deputies.

**§2E.** Storm washed scallops may be salvaged only when they are high and dry on the beach. The sale of salvaged scallops is strictly prohibited under State Law and Town Regulations.

**§6G.** Wet storage of Shellfish is prohibited.

**§11 I.** Any bay scallops within a licensed area for oyster aquaculture belong to the public. Dip netting is the only method permitted for taking such scallops.

**§7N.** Missing signs: The harvesting of shellfish is prohibited in areas so posted by the Shellfish Constable, Regardless of the fact that weather or other circumstances may from time to time remove signage, it is the responsibility of each Commercial License holder to become familiar with all closed areas. Missing signage should be reported to the Shellfish Department.

**Family Permit:**

**§4C.** The Family Scallop season is about October 1 to March 31. the exact date of the start of the family season will be announced prior to October 1.

**§5 I.** Fishing with Family Permit will be allowed between the hours of 7:00 A.M. and 5:00 PM.

**§5D.** The Bay scallop limit for a family permit shall be no more than one (1) level 10 gallon plastic washbasket including shells determined at the discretion of the warden or deputies per week in season.

**§5G.** Wading for scallops by a Family Permit holder is permitted unless the Shellfish Constable is of the opinion that the area is a scallop seed area.

**§5K.** Shellfish harvested under a family permit may not be sold.

**§3.** All family permit holders must take their catch by land or water to the nearest available landing area to be inspected by a Shellfish Constable or Deputy.

1. Wilson Place Landing at Great Pond
2. Edgartown Wharf at the foot of Main Street
3. Katama Boat Ramp
4. Edgartown-Oak Bluffs Bridge or Boulevard Landing in Sengekontacket
5. Dyke Bridge
6. Eel Pond Boat Ramp
7. North Wharf

**§7D.** When a Commercial License holder is harvesting shellfish for another Family Permit holder, that holder must be present when the day's catch is checked in. If the permit holder is physically unable to be present due to illness or disability, permission from the Shellfish Constable must be obtained each time before harvesting shellfish.

**Commercial License:**

**§7C.** The Commercial Season runs about November 1 to March 31, the exact date of the start of the commercial season will be announced prior to November 1.

1. Scallops may be harvested commercially between the hours of 7:00AM and 4:00PM Monday through Friday. All boats must be in at the North Wharf (or other Shellfish Department designated Scallop Landing area by 4:30 P.M.
2. The Commercial daily limit shall be set annually by the Shellfish Committee and the Constable or Deputies.
3. Wading for bay scallops commercially is prohibited.
4. Scallop dredges shall not exceed thirty-six (36) inches in width and must not have a dry weight in excess of seventy-five (75) lbs. Dredges must not have any lead in their construction and must be individually tied to the boat (gang dredges are prohibited).

**§7K.** Commercial scallop harvesting by dredge within the bays and harbors of the Town of Edgartown will be closed to harvesting on any day in which the air temperature does not exceed thirty degrees Fahrenheit (30°F) by 10:00 A.M. On no fishing days, i.e. those days deemed by the Shellfish Constable to be too cold for fishing a red flag will be flown at the foot of Main Street. Scallops may be harvested commercially on a Saturday of a week during which the air temperature did not exceed thirty degrees Fahrenheit (30°F) by 10:00 on any day, Monday through Friday of said week provided that the air temperature exceeds thirty degrees Fahrenheit (30°F) by 10:00 A.M. on said Saturday.

§7E. A Commercial fisherman shall make no more than one round trip per day per species with no more than two (2) licensed commercial fishermen per boat.

§3. All commercial permit holders must take their catch by land or water to the North Wharf (or a location designated by the Shellfish Constable or Deputies) to be inspected by a Shellfish Constable or Deputy.

- Commercially fished scallops, shall be held, transported and stored in 10 gallon plastic washbaskets.

§7B. Holidays: No commercial fishing is allowed on Thanksgiving or Christmas Day.

§7C. A Commercial License holder is only entitled to fish under the terms of a Family Permit limits and conditions on any species for which the license holder is not commercially fishing.

§7D. When a Commercial License holder is harvesting shellfish for another Family Permit holder, that holder must be present when the day's catch is checked in. If the permit holder is physically unable to be present due to illness or disability, permission from the Shellfish Constable must be obtained each time before harvesting shellfish.

§7F. Commercial harvesting of shellfish using SCUBA gear is prohibited.

§7H. The transfer of shellfish from one boat to another is prohibited.

§7I. Shell fishing between sunset and sunrise is prohibited.

§7L. Scallops shall not be culled at a distance less than 100 feet from the nearest shoreline.

§7M. Katama Bay is closed to all species of Commercial shell fishing except scallops from December 15 through March 15.

§7J. Oyster Pond is closed to all shell fishing except for the propagation of seed by the Shellfish Constable/Marine Biologist.

### **General Penalties for all License and Permit Holders**

§8A. Whoever takes any shellfish or sea worms from the beds in said Town without a Family Permit or Commercial license shall be liable to a penalty of one hundred dollars (\$100.00) or arrest without a warrant.

§8B. Any person taking shellfish, other than adult shellfish, as defined in SECTION 4 above, from the flats and tide waters (note that for the purpose of these REGULATIONS Edgartown Great Pond shall be considered a tide water at all times) of said town shall be liable to a penalty of loss of license or permit for a period of not more than one year unless such person immediately returns them alive to the tide

water which is at least three (3) feet deep at mean low tide.

**§8C.** No person, except for persons holding valid aquaculture licenses, is allowed by law to take from the waters of said Town or to sell or offer for sale or to have in his or her possession soft shell clams, quahogs oysters, scallops or surf clams that do not meet the size requirements of SECTION 4 above.

**§8D.** Whoever takes shellfish from the tide waters and flats, including Great Pond, within said Town shall have the required licenses or permit consistent with the Massachusetts General Laws and Edgartown Shellfish Regulations in their possession at all times when fishing or transporting their catch.

**§8E.** Any person aggrieved by a decision of the Selectmen shall have the right to a full and fair hearing as follows: the person shall appear before the Shellfish Committee which will hear the complaint and recommend action to the Board of Selectmen which shall then hold a public hearing.

### **Commercial Penalties**

**§9A.** Any person having such Commercial license (and acceptance of said license shall constitute agreement) for the taking of shellfish and who violates any laws of the Commonwealth or any regulations made by the Edgartown Selectmen relating to shellfish or Shell fishing in said Town shall be subject to the following penalties:

1. First citation;

Violators of these regulations shall be a \$100 fine.

2. Second citation;

Violators of these regulations shall have their licenses automatically suspended for a period of one (1) to five (5) fishable day.

3. Third citation;

Violators of these regulations must appear before the Board of Selectmen. Said Board at a fair and open hearing may, upon recommendation of the Shellfish Constable or Deputy Shellfish Constable and Shellfish Committee have such license suspended for a period of ten (10) to thirty (30) fishable days.

4. Fourth citation;

Violators of these regulations must appear before the Board of Selectmen. Said Board at a fair and open hearing may, upon recommendation of the Shellfish Constable or Deputy Shellfish constable and Shellfish Committee depending on the and severity of the offense shall have such license suspended for a period from sixty (60) to one-hundred-eighty (180) fishable days at the Board's sole discretion.

5. Severe offenses which shall include but are not limited to: stealing, failure to display (hidden caches), fishing in closed areas, or critical harvest of seed, could incur penalties to be determined at the discretion of the Shellfish



Constable, or Deputy Shellfish Constable and the Shellfish Committee.

**§9B.** If a license suspension carries beyond the close of the season of the species being harvested, the balance of the suspension remaining shall be carried over to that species next season.

**§9C.** If there are no subsequent offenses during a three (3) year period starting with the date of the last offense, the individual will be considered to have a clean slate.

*Approved by Edgartown Board of Selectmen at a June 19, 2017 Public Hearing*