

TOWN OF OAK BLUFFS

REGULATIONS AS TO THE TAKING OF SHELLFISH

1. An Oak Bluffs Shellfish License is required to take any and all types of shellfish, seaworms or eels from the waters of Oak Bluffs.
2. Any person who takes shellfish from the waters of Oak Bluffs without an Oak Bluffs Shellfish license, or any person who does so after his shellfish license has been revoked, or suspended and before it is reinstated, shall be punishable by a fine of not less than fifty (\$50.00) dollars nor more than one thousand (\$1,000.00) dollars or by imprisonment for not more than three months, or both as is provided in Massachusetts General Laws Chapter 130, Section 2 as amended.
3. The penalty for a violation of these rules and regulations, except as stated above in section two (2) or elsewhere in these regulations, shall be:
 - First offense, suspension of the shellfish license for five (5) fishing days and /or a fine of not less than ten (\$10.00) dollars nor more than fifty (\$50.00) dollars.
 - Second offense, suspension of the shellfish license for fifteen (15) days and/or a fine of not less than ten (\$10.00) dollars no more than fifty (\$50.00) dollars.
 - Third offense, revocation of shellfish license for one calendar year.
4. Effective January 1, 2007, all shellfish licenses shall be valid from January 1st through December 31st or any part thereof, except for:
 - One (1) week non-resident recreational shellfish license which shall be valid for not more than seven (7) calendar days;
 - Two (2) week non-resident recreational shellfish license which shall be valid for not more that fourteen (14) calendar days;
 - One (1) month non-resident recreational shellfish license which shall be valid any calendar month or part thereof May through September.

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

5. Types of shellfish licenses that may be issued (All license fees are non-refundable):
 - a) **A COMMERCIAL SHELLFISH LICENSE** may be issued to any permanent resident of Oak Bluffs. The burden of proof of residency shall be on the applicant. Some examples of proof of residency are: rent receipts, tax bill receipts, voter registration card, census list representation, and/or any other proof deemed acceptable by the Shellfish Committee. **Effective January 1, 2013 the fee for a commercial shellfish license shall be three hundred fifty (\$350.00) dollars.** No fees shall be waived.
 - i) Commercial shellfish licensees are prohibited from obtaining a recreational shellfish license.
 - ii) The acquiring of a commercial shellfish license automatically revokes a recreational shellfish license held by that person. Any person who uses a recreational shellfish license to harvest scallops shall not be permitted to obtain a commercial shellfish license until ten (10) commercial fishing days after the opening day of commercial season.

Commercial shellfish licensees may use their license for the taking of oysters, for which there is not a commercial shellfishery within the town.

- iii) Commercial shellfish licenses will only be renewed from January 1st to March 31st.
- iv) Anyone wishing to purchase or renew a commercial license after March 31st must file as a new license and show just cause of why they could not purchase a license during the issuing period of that current year.

b) **A RECREATIONAL SHELLFISH LICENSE** shall be valid for a family comprised of no more than licensee, spouse and children under eighteen (18) years of age.

- i) A RESIDENT RECREATIONAL SHELLFISH LICENSE may be issued to any owner of real estate in the Town of Oak Bluffs assessed for taxation at not less than ten thousand (\$10,000.00), or a dwelling house or to any permanent resident of the Town of Oak Bluffs. Burden of proof of residency shall be on the applicant. **Effective January 1, 2013 the fee for a resident family shellfish license shall be forty (\$40.00) dollars.**

- ii) **Effective January 1, 2013 The fee for any resident senior citizen who has attained a minimum of sixty (60) years of age by December 31, 2012 shall pay five (\$5.00) dollars. The fee for any resident senior citizen who has attained a minimum of sixty-one (61) years of age by December 31, 2013 shall pay five (\$5.00). The fee for any resident senior citizen who has attained a minimum of sixty-two (62) years of age by December 31, 2014 shall pay five (\$5.00). The fee for any resident senior citizen who has attained a minimum of sixty-three (63) years of age by December 31, 2015 shall pay five (\$5.00) dollars. The fee for any resident senior citizen who has attained a minimum of sixty-four (64) years of age by December 31, 2016 shall pay five (\$5.00) dollars. The fee for any resident senior citizen who has attained a minimum of sixty-five (65) years of age by December 31, 2017 shall pay five (\$5.00) dollars.**

- iii) A NON-RESIDENT RECREATIONAL SHELLFISH LICENSE may be issued to any person. The fee for a non-resident recreational shellfish license shall be four hundred (\$400.00) dollars effective January 1, 2012. There shall be no fees waived.

- iv) A ONE (1) WEEK NON-RESIDENT RECREATIONAL SHELLFISH LICENSE may be issued to any person, from May 1 through September 30. Each license shall be valid for a maximum of seven (7) days and no one (1) week non-resident shellfish license shall be valid after September 30. The issuance of the license allows the licensee to take up to one weekly limit of shellfish. **Effective January 1, 2013 the fee shall be thirty (\$30.00) dollars.** There shall be no fee waived.

- (v) A TWO (2) WEEK NON-RESIDENT RECREATIONAL SHELLFISH LICENSE may be issued to any person, from May 1 through September 30. Each license shall be valid for a maximum of fourteen (14) days and no two (2) week non-

resident shellfish license shall be valid after September 30. **Effective January 1, 2013 the fee shall be fifty-five (\$55.00) dollars.** There shall be no fees waived.

vi) A ONE (1) MONTH NON-RESIDENT RECREATIONAL SHELLFISH LICENSE may be issued to any person, from May 1 through September 30. Each license shall be valid for any month or part thereof from May through September. No one (1) month non-resident shellfish license shall be valid after September 30. **Effective January 1, 2013 the fee shall be eighty (\$80.00) dollars.** There shall be no fees waived.

vii) **Any Oak Bluffs resident who has served in the military and can provide proof of their honorable discharge with a United States government issued identification card or their DD214 shall have his/her recreational shellfish license fee waived.**

6. The waters of Oak Bluffs are open for recreational shellfishing Sunday through Saturday from 7:00 a.m. to sunset or 7:00 p.m., whichever is earlier.
7. A recreational shellfish licensee shall not fish more than once a week for any species of shellfish, without obtaining prior permission from the Shellfish Constable or Deputy Shellfish Constable. A recreational shellfish licensee shall not take more than one half (1/2) heaping bushel of any and all species of shellfish during said week, except the scallop limit shall be no more than one (1) heaping bushel per week, in season.
8. A shellfish licensee may be allowed to dig one (1) additional recreational shellfish limit per week for another recreational licensee who is mentally and/or physically handicapped and/or suffering from an illness and/or is a senior citizen. A letter from the person for whom the shellfish will be collected must be submitted annually to the Shellfish Constable. All shellfish for this permit shall be turned over to the absentee licensee for their consumption. Either or both permits may be revoked for a period of up to three hundred sixty five (365) days for just cause.
9. The licensee must have their valid shellfish license on their person while shellfishing, and must present said license to the Shellfish Constable or Deputy Shellfish Constable when directed to do so. The Shellfish Constable or Deputy Shellfish Constable may also require a photo identification to be presented.
10. No license for the taking of shellfish shall be granted to minor under the age of sixteen (16) years of age.
11. a) All shellfish taken at Sengekontacket Pond shall be landed at a location designated by the Town Shellfish Constable or Deputy Shellfish Constable. All shellfish must be checked by the Shellfish Constable or Deputy Shellfish Constable before they are unloaded.
b) All shellfish taken from any other waters of the Town must also be checked in and landed at a location designated by the Town Shellfish Constable or Deputy Shellfish Constable.

12. Transferring shellfish from one shellfish license to another is prohibited.
13. A bushel container must be either a standard wire bushel basket or a plastic “legal limit” bushel box. No other container used to hold a bushel of shellfish shall be allowed. These containers must be in good shape and not cracked, spread, stretched or any method used to increase their capacity. No artificial means shall be used to hold scallops on the baskets or boxes.
14. Leaving any shellfish area without first having the shellfish examined by the Shellfish Constable is prohibited.
15. It shall be unlawful to return any and all shellfish predators, such as starfish, conches, welks, crabs, etc. to the water.
16. Any person engaged or having engaged in shellfishing must immediately stop for and display all shellfish in their possession when directed to do so by the Shellfish Constable or a Deputy Shellfish Constable.
17. All shellfish shall be measured before they are brought ashore and all seed shall be placed in deep water.
18. A boat may only fish recreational shellfish licenses OR commercial shellfish licenses in any calendar day. A boat may make only one (1) commercial trip per species per calendar day, Monday through Friday or on Saturday if the day qualifies under section 26 of these regulations.
19.
 - a) No more than two (2) commercial shellfish licensees are allowed in a boat for commercial use. There shall be no more than two (2) commercial shellfish limits landed per boat per day.
 - b) A maximum of three (3) recreational shellfish licensees are permitted in a boat for recreational shellfishing.
 - c) The towing of boats is prohibited, except in the case of engine failure or other emergency.
 - d) When a commercial shellfishing boat comes ashore it is done (finished) for the day, except if there is an equipment failure that requires coming ashore. (also see exception in 19-e)
 - e) Once a boat has begun to fish commercially it is prohibited from bringing aboard another commercial licensee at any time during that day, except upon prior agreement of the Shellfish Constable or Deputy Shellfish Constable on duty setting a time and location that the second licensee will be coming aboard, so the on duty Shellfish Constable or Deputy Shellfish Constable may verify that a single limit has not been exceeded.
20. There shall be no shellfishing within the Town’s jurisdiction on Thanksgiving and Christmas.
21. In order to purchase a shellfish license from the Town of Oak Bluffs you must first present or purchase a gauge, which is used in the legal measurement of hard-shell clams (quahogs).

SCUBA DIVING

- 22. a) No commercial diving of any type is allowed in Lagoon Pond.
- b) Only recreational diving, snorkeling or swimming will be allowed in Lagoon Pond on Saturdays, Sundays and Mondays.
- c) All methods of diving, both commercial and recreational, will be allowed in Sengekontacket Pond in Sections 1, 2 & 3 only. No dragging will be allowed in these sections.
- d) Boats shall stay at least 100 feet from diver's flag.
- e) Anyone harvesting shellfish by swimming, snorkeling or scuba diving shall have a diver's flag.

SCALLOPS

- 23. The hours for taking scallops by commercial fishermen shall be between 7:00 a.m. and 4:00 p.m. except Saturday and Sunday when the ponds are closed to all commercial shellfishing (see exception in section 26). All commercial shellfishermen must check in with the Shellfish Constable no later than 4:10 p.m.
- 24. There shall be no dragging for scallops unless the air temperature reaches a minimum of twenty eight (28) degrees Fahrenheit, by no later than ten (10:00) am on any calendar day.
- 25. If one or more days, Monday through Friday, fails to reach a minimum air temperature of twenty eight (28) degrees Fahrenheit by ten (10:00) am then a commercial licensee may fish a commercial limit on Saturday of the same calendar week, if an air temperature of twenty eight (28) degrees Fahrenheit is reached **by ten (10:00) am**. There shall be no make up day for any other method of catching scallops.
- 26. Scallop season opening/closing dates and limits, within the limits of Massachusetts General Law, Chapter 130, will be recommended by the Shellfish Committee and are contingent upon the approval of the Board of Selectmen.
- 27. No person shall take scallops other than adult scallops or offer for sale or have in his possession such scallops, unless licensed by the Massachusetts Division of Marine Fisheries to do so. Adult scallops shall be scallops with a well defined, raised annual growth line (annuallus) and any scallop without such line shall be deemed a seed scallop.
- 28. a) No boats used for the taking of scallops shall exceed twenty-two (22) feet in length at the water line.
- b) The use of more than four (4) drags is prohibited.
- c) The use of a drag exceeding thirty-six (36) inches in width is prohibited.
- d) The use of lead rollers or lead weights on the drags is prohibited.

- e) Speed of the boat shall not exceed four (4) miles per hour in the fishing area. No wake allowed.
29. a) Loose scallops in boats are prohibited and shall be confiscated by the Shellfish Constable or Deputy Shellfish Constable.
- b) At the completion of a tow, the contents of the retrieved drag will be culled after being placed on the culling board to provide for minimal damage to the seed.
30. Dragging shall be prohibited from the following areas:
- a) The area which at the discretion of the Shellfish Constable or Deputy designates as the seed area and Constable or Deputy shall inform the Selectmen of such area.
 - b) Within one hundred (100) feet of the Massachusetts Division of Marine Fisheries Lobster Hatchery's seawater intake lines.
 - c) The Shellfish Constable may designate an area each scallop season for recreational dip netting only and dragging will be prohibited. The area will be marked by buoys set out by the Shellfish Department personnel.
31. All drags must be empty and in sight when checking in with the Shellfish Constable or Deputy Shellfish Constable and must remain in sight until the shellfish are unloaded from boat.
32. Scallops that are washed ashore by storm conditions, within the boundaries of the Town of Oak Bluffs, shall be harvested by holder of a valid Oak Bluffs shellfish licensee only. The limit may be waived under these conditions at the discretion of the Shellfish Constable or Deputy Shellfish Constable on duty.
33. There shall be no walking to catch scallops except in those areas approved by the Shellfish Constable. This is to protect the seed areas.
34. All culling shall be done in deep water. Scallops shall not be culled on any flat or near the beach (within one hundred (100) feet of the beach).
35. OFFSHORE SCALLOPING, offshore shall be defined as any area outside the ponds or harbor.
- a) Commercial limit - five (5) struck bushels.
 - b) Recreational limit - one (1) heaping bushel
 - c) Fishing hours - 7:00 a.m. - 4:00 p.m.
 - d) Fishermen must check in scallops at Harbor Master's shack, no later than 4:15 p.m.
 - e) The use of more than four (4) drags is prohibited.
 - f) The use of a drag exceeding thirty-six (36) inches in width is prohibited.
 - g) The use of lead rollers or lead weights on the drags is prohibited.

OYSTER

36. The minimum size for oysters shall be three (3) inches longest shell measurement.
37. The maximum limit shall be not more than one half (1/2) bushel per calendar week per shellfish license.

QUAHOGS

38. The daily limit for commercial licenses shall be three (3) struck bushels, one (1) bushel of littlenecks, one (1) bushel of cherrystone and one (1) bushel of chowders.
39. It is unlawful to take any quahog that does not measure one (1) inch in thickness (hinge height). Gauges for measuring are available at the Town Hall. A gauge must be carried while quahoging.
40. The hours for commercial quahoging shall be from 7:00 a.m. - 4:00 p.m. from November 1st to March 31st, and from 7:00 a.m. to 5:00 p.m. from April 1st to October 31st, Monday through Friday. Commercial quahoging in Sengekontacket shall be limited to the channel or west of the channel.
41. Power dredging for quahogs is permitted only in open areas of Oak Bluffs Harbor, during the dates set by the Selectmen. The maximum length of a boat used for power dredging shall be thirty (30) feet at the waterline.

SOFT SHELLED CLAMS

42. The minimum legal size shall be two (2) inches at the longest shell measurement. A two (2) inch ring must be carried while claming.
43. The commercial limit shall be no more than two (2) bushel per day, Monday through Friday.
44. Commercial clamming shall be limited to the same hours as commercial quahoging.
45. Jetting of clams is prohibited.

DATE ADOPTED BY BOARD: December 12, 1995

FIRST REVISION: March 19, 1996

SECOND REVISION: August 11, 1998

AMENDED: September 30, 2008

AMENDED: November 29, 2011

THIRD REVISION: April 24, 2012