



# *Town of Ipswich Massachusetts*

## *Shellfish Rules & Regulations*

*(Adopted through August 23rd, 2021)*

By virtue of the authority granted by the Voters of the Town of Ipswich at a Town Meeting held on June 12, 1946, and in accordance with the provisions of Section 52 of Chapter 130 of the Massachusetts General Laws and amended by Chapter 598, Acts of 1941 and amendments thereto, the Select Board hereby makes the following regulations for the farming and harvesting of shellfish and marine worms.

No person shall harvest shellfish from Ipswich without a permit.

No person with a Recreational Permit shall harvest shellfish or marine worms for commercial purposes.

### **SECTION 1 - DEFINITIONS**

“Commercial Purposes” – The harvesting of shellfish or marine worms for sale, trade or other consideration.

“Resident” - as defined by the Select Board.

“Shellfish” - as used herein, includes soft-shelled clams, hard-shelled clams/quahogs, mussels, razor clams, surf clams and oysters.

“Shellfish Enhancement Fund” – Beginning in 2005, a dedicated resource funded by shellfish permit holders and/or contributions used to enhance shell fishing in Ipswich.

“Summer Resident” - A person who owns and pays real estate or personal property taxes upon a summer residence in Ipswich or who rents residential property for a time period which includes the continuous period from May 1 to October 14, inclusive, shall be eligible for a resident recreational permit under the terms of these Rules and Regulations.

“Veteran” – As defined by the Commonwealth of Massachusetts (<https://www.sec.state.ma.us/cis/cisvet/vetdefin.htm>).

“Week” – Sunday through Saturday.

**SECTION 2 - FEES**

<u>Commercial Permits</u>	<u>Permit Fee</u>	<u>Shellfish Enhancement Fund</u>	<u>Total</u>
Commercial - Resident	\$400.00	\$50.00	\$450.00
Commercial - Resident 70 years of age and older	\$0.00	\$50.00	\$50.00
Commercial - Resident Student	\$200.00	\$50.00	\$250.00

<u>Recreational Permits</u>	<u>Permit Fee</u>	<u>Shellfish Enhancement Fund</u>	<u>Total</u>
Resident- Annual	\$30.00	\$10.00	\$40.00
Non-Resident Veteran - Annual** (Massachusetts resident)	\$30.00	\$10.00	\$40.00
Resident - Annual 70 years of age and older	\$0.00	\$10.00	\$10.00
Non-Resident Veteran – Annual** (Massachusetts resident) 70 years of age or older	\$0.00	\$10.00	\$10.00
Resident Family - Annual	\$40.00	\$10.00	\$50.00
Non-Resident Daily (Massachusetts resident)	\$20.00	\$0.00	\$20.00
Non-Resident Annual (Massachusetts resident)	\$150.00	\$10.00	\$160.00
Non-Resident Daily (Out-of-state resident)	\$20.00	\$0.00	\$20.00

\*\* To be eligible for Veteran’s fee, proof of Veteran status and Massachusetts residency must be presented with application.

### **SECTION 3 - COMMERCIAL PERMITS**

No person shall harvest shellfish for commercial purposes without a permit issued by the Select Board in accordance with the provisions of this Section.

Any person who is an Ipswich resident may be granted a permit for the harvesting of shellfish by means of his or her own labor for commercial purposes.

The harvest limit is three hundred (300) pounds of shellfish (excluding oysters and sea clams) per permit holder per day until October 1, 2022. The harvest limit shall be one hundred eighty (180) pounds of shellfish (excluding oysters and sea clams) per permit holder per day beginning October 2, 2022. The holder of a commercial permit shall have a daily harvest limit of thirty (30) oysters and a weekly harvest limit of sixty (60) oysters. Sea clams and American Oysters may be harvested on a commercial permit for personal use only, but sales of either species are strictly prohibited. The limit for sea clams is thirty (30) per day and sixty (60) per week.

Unless otherwise temporarily suspended by vote of the Select Board, commercial shell fishermen shall be restricted to harvesting only one tide per day from May 1 to September 30, inclusive. The tide would be the choice of the permit holder.

The fee for a resident commercial permit is \$450 per year payable to the Town of Ipswich upon application filed with the Town Clerk's office. The fee includes \$400.00 for the permit and \$50.00 for the Shellfish Enhancement Fund.

The Select Board may grant a commercial permit, without fee, to any Ipswich resident who is seventy (70) years of age or older, and can demonstrate that he or she has held an Ipswich commercial permit for any five (5) permit years. This "over 70" commercial permit shall only be issued after payment of \$50.00 is made to the Shellfish Enhancement Fund each permit year. Each year, the holder of an "over 70" commercial permit will be required to perform one (1) enhancement task, or be assessed an additional \$100.00 the following permit year, payable to the Shellfish Enhancement Fund. If the permit holder fails to perform an enhancement task or pay the additional fee, their permit will not be renewed the following season.

The cap for commercial permits is 125 permits. All permit holders in the prior year shall have the right of first refusal to renew their permit the following year. Student commercial permits (as provided below) and permit holders seventy (70) years of age or older are excluded from this cap. The remaining available permits shall be issued through a public lottery process prior to the start of the commercial shell fishing season. Individuals wishing to be placed into the lottery must first be placed on the lottery list, established during the lottery application period of December 1 through December 31. A new lottery list shall be created each application period.

Applications to renew resident commercial permits must be received by the Town Clerk between December 1 and March 1, inclusive. If March 1 falls on a weekend or a day that Town Hall is closed, the deadline shall be the close of business on the next business day. The Select Board shall review the applications for said permits and renewals thereof during the month of March and issue permits, effective April 1 of each year, to those applicants the Board deems qualified.

No commercial permit shall be issued until evidence of a State commercial shell fishing permit has been presented and copied, and full payment of the applicable fees has been made.

Provisional Commercial Permits. The Select Board may consider applications for commercial permits outside of the application period, provided permits are available under the cap of 125 commercial permits. If a provisional

permit is approved by the Select Board, the applicant has thirty (30) days to pick up the permit and pay all associated fees or the permit is forfeited. If the applicant fails to finalize the permit process and forfeits the permit, they are disqualified from re-applying for a provisional permit that permit year.

No person holding a commercial shellfish permit shall harvest shellfish from any area which has been designated as being restricted by the Select Board for recreational harvesting. The following areas are designated as Recreational Harvesting Only:

1. Richard's Grounds (Area N4)
2. Mitchell's Ground (Area N4)

During the period May 1 to September 30 of each year, inclusive, the holder of a commercial permit who harvests shellfish from any flat north of Little Neck (State designated area N4) is required to utilize the Eagle Hill landing as the designated landing area.

All shellfish harvested must be landed no later than one-half (1/2) hour after sunset. No shellfish shall be harvested earlier than one-half (1/2) hour before sunrise.

Every commercial permit holder will perform one (1) conservation, enhancement, or predator control task as defined by the Constable during the permit year or pay an additional \$100.00 into the Shellfish Enhancement Fund. If the permit holder fails to perform an enhancement task or pay the additional fee, their permit will not be renewed the following season.

#### Student Commercial Permits.

A person who is a full time resident and full time student, having completed the 8<sup>th</sup> grade and reached the age of 14 years old by April 1<sup>st</sup> of the year of application, may apply to the Town Clerk for a student commercial shell fishing permit during the period of December 1 to December 31, inclusive. At the time of application, the individual must present written evidence from his or her current school of attendance that he or she is a bona-fide full time student, and their primary residence is in Ipswich. Individuals who have attained the age of 19 years old, or have received their High School Diploma on or before December 1 of the year of application shall not be eligible for the student commercial permit.

No student commercial permit shall be issued until evidence of a State commercial shell fishing permit has been presented and copied by the Town Clerk.

The \$250 fee associated with the student permit shall be paid in full at the time of issuance on April 1 with \$50.00 of said fee being deposited into the Shellfish Enhancement Fund.

Student commercial permits have a separate cap of five (5), and will be awarded through a lottery process. There is no implied right to a student permit from year to year. There will be no "provisional" student commercial permits if not all five (5) are issued.

The student commercial shell fishing season commences on April 1 and ends on September 30.

All student commercial permits shall be subject to the same state laws, local regulations and daily harvest limits as a regular commercial shell fishing permit.

## **SECTION 4 - RESIDENT RECREATIONAL PERMITS**

No person with a Recreational Permit shall take shellfish or marine worms for commercial purposes.

An Ipswich resident or Ipswich summer resident, as defined above, may be granted a permit to harvest shellfish by means of his or her own labor for personal use. The following harvest limits apply to recreational permits:

### Daily Limit:

- One (1) 10-quart pail of soft-shelled clams
- One (1) 10-quart pail of mussels
- One (1) 10-quart pail of quahogs
- Thirty (30) sea clams
- Three dozen (36) marine worms
- One (1) 10-quart pail of razor clams
- Thirty (30) oysters (Oct 1 through April 30)

### Weekly Limit:

- Two (2) 10-quart pails of soft-shelled clams
- Two (2) 10 quart pails of mussels
- Two (2) 10-quart pails of quahogs
- Two (2) 10-quart pails of razor clams
- Sixty (60) sea clams
- Six dozen (72) marine worms
- Sixty (60) oysters (Oct 1 through April 30)

The fee for a resident Recreational Permit is \$30.00 per year, plus \$10.00 payable to the Shellfish Enhancement Fund.

A Recreational Permit may be granted to Ipswich residents who are seventy (70) years of age or older or on active-duty military service upon payment of \$10.00 to the Shellfish Enhancement Fund. The permit year is January 1-December 31, and permits must be renewed each year.

## **SECTION 5 - RESIDENT RECREATIONAL FAMILY PERMITS**

No person with a Resident Recreational Family Permit shall harvest shellfish or marine worms for commercial purposes.

A head-of-household whose principal year-round domicile is within the Town of Ipswich may be granted a resident family permit to harvest shellfish and marine worms. The recreational family permit will include said head-of-household, his or her spouse living within the same domicile, his/her children fourteen (14) years of age or younger, and any other person fourteen (14) years of age or younger living within the same domicile whose legal guardian is the said head-of-household or spouse).

The head-of-household, in whose name the permit is issued, MUST be present while members of the household are harvesting shellfish or marine worms.

No applicant will be granted a family permit in his or her name if the applicant is the holder of a resident commercial shellfish permit.

Regardless of the number of persons digging at any one time, the total amount of shellfish and marine worms harvested under the recreational family permit shall not exceed the following daily and weekly limits:

Daily Limit:

- Two (2) 10-quart pails of soft-shelled clams
- Two (2) 10-quart pails of mussels
- Two (2) 10-quart pails of quahogs
- Thirty (30) sea clams
- Six dozen (72) marine worms
- Two (2) 10-quart pails of razor clams
- Thirty (30) oysters (Oct 1 through April 30)

Weekly Limit:

- Four (4) 10-quart pails of soft-shelled clams
- Four (4) 10-quart pails of mussels
- Four (4) 10-quart pails of quahogs
- Sixty (60) sea clams
- Twelve dozen (144) marine worms
- Four (4) 10-quart pails of razor clams
- Sixty (60) oysters (Oct 1 through April 30)

The fee for a Resident Recreational Family Permit is \$40.00 per year, plus \$10.00 payable to the Shellfish Enhancement Fund.

**SECTION 6 - NON-RESIDENT RECREATIONAL PERMITS**

No person holding a Recreational Permit shall harvest shellfish or marine worms for commercial purposes.

A Massachusetts resident who is not a resident of the Town of Ipswich may be granted a permit for the harvesting of shellfish or marine worms.

The permit fees for a Massachusetts resident who is not a resident of Ipswich are \$20.00 per day or \$150.00 per calendar year, plus \$10.00 payable to the Shellfish Enhancement Fund for the annual permit. There is a limit of two (2) daily permits per week.

Non-Resident Massachusetts Veterans:

The permit fee for a Massachusetts Veteran (as defined by the Commonwealth of Massachusetts (<https://www.sec.state.ma.us/cis/cisvet/vetdefin.htm>)) who is not a resident of Ipswich is \$30.00 per calendar year plus \$10.00 payable to the Shellfish Enhancement Fund.

The fee for a Massachusetts Veteran (as defined by the Commonwealth of Massachusetts (<https://www.sec.state.ma.us/cis/cisvet/vetdefin.htm>)) who is seventy (70) years of age or older and not a resident of Ipswich is \$10.00 per calendar year payable to Shellfish Enhancement Fund.

To be eligible for the Veteran's fee, proof of Veteran status and Massachusetts residency must be presented with application.

Out of State Residents:

Out-of-state residents may be issued a 1-day recreational shellfish permit under the following conditions:

- a. They identify in the application the name and permit number of the Ipswich resident holding a valid shellfish permit (whether recreational or commercial) who will accompany them.
- b. They must be accompanied while harvesting by the sponsoring permit holder on the day specified on the permit.
- c. A fee of \$20.00 is paid at the time of the application.
- d. Once each year, any active-duty member of the Armed Forces of the United States may be issued a permit exempt from the fee. All other requirements for the issuance of this permit shall apply.
- e. There is a limit of two (2) daily permits per week.

The total amount of shellfish and marine worms harvested under the non-resident recreational permit shall not exceed the following daily and weekly limits:

Daily Limit:

- One (1) 10-quart pail of soft-shelled clams
- One (1) 10-quart pail of mussels
- One (1) 10-quart pail of quahogs
- Thirty (30) sea clams
- Three dozen (36) marine worms
- One (1) 10-quart pail of razor clams
- Thirty (30) oysters (Oct 1 through April 30)

Weekly Limit:

- Two (2) 10-quart pails of soft-shelled clams
- Two (2) 10 quart pails of mussels

- Two (2) 10-quart pails of quahogs
- Two (2) 10-quart pails of razor clams
- Sixty (60) sea clams
- Six dozen (72) marine worms
- Sixty (60) oysters (Oct 1 through April 30)

**SECTION 7 – OTHER PERMIT RESTRICTIONS**

No person holding any type of Recreational Permit shall harvest shellfish or marine worms for commercial purposes.

All recreational shellfish permits shall be displayed in a visible manner on outer clothing while harvesting shellfish in the Town of Ipswich.

All recreational permits shall terminate on December 31 of each year.

All commercial permits, except student commercial permits, shall terminate on March 31 of each year.

All student commercial permits shall terminate on September 30 each year.

The selling of Sea Clams and American Oysters is prohibited under any permit.

**SECTION 8 - LEGAL SIZE OF SHELLFISH**

Minimum Size Limit:

Soft-shell clams “Mya arenaria”	2 inches in length
Quahogs “Mercenaria mercenaria”	2 inches in length
Sea clams “Spisula solidissima”	5 inches in length
Razor clams “Ensis directus”	5 inches in length
American Oysters “Crassostrea virginica”	3 inches in length

No person shall harvest or have in his or her possession any shellfish less than the minimum size limit in the amount of more than five percent (5%) by count.

**SECTION 9 - CLAM FORKS AND CONTAINERS**

No person shall harvest soft-shelled or razor clams from any flats in the Town of Ipswich except with a clam fork, the form of which is to be approved by the Shellfish Constable and/or the Select Board. No other digging instrument or method is permitted.

No person issued any type of recreational permit shall harvest shellfish on any of the shellfish harvesting areas in the Town of Ipswich unless said person has in his or her possession and utilizes no larger than a 10-quart container.



## **SECTION 10 - CLOSING OF FLATS**

No shellfish or marine worms shall be harvested during the hours of one-half (1/2) hour after sundown until one-half (1/2) hour before sunrise.

The harvesting of oysters is prohibited between May 1 and September 30, inclusive.

From May 1 until September 30, inclusive, all areas are closed for the harvesting of shellfish every Sunday. On the rare occasion when there is a rain closure, and opening day would normally be a Sunday, that Sunday only, harvesting shall be allowed during the period May 1 through September 30 when posted.

Any person, with or without a shellfish permit, who harvests shellfish from the shellfish harvesting areas in the Town of Ipswich that have by order, proclamation, rules, or notice, been declared posted, or ordered to be closed for the harvesting of shellfish, shall be punished as prescribed in Section 14.

## **SECTION 11 – OTHER AUTHORITY OF THE SELECT BOARD, SHELLFISH CONSTABLES AND IPSWICH POLICE OFFICERS**

The Select Board has the authority to open, close and/or otherwise control and restrict the shellfish harvesting areas or a portion thereof for the harvesting of shellfish or marine worms as it deems necessary and desirable. In the event a shellfish harvesting area or portions thereof are in need of an emergency closure, restrictions or controls, the Shellfish Constable or Chief of Police may act without the authorization of the Select Board to close, restrict or control said area until the issue can be legally heard by the Select Board.

The Shellfish Constables and/or Ipswich Police Officers are authorized to enforce these rules and regulations and prosecute any person or persons who violate any law or regulations governing the harvesting of shellfish in the Town of Ipswich.

In the event a Shellfish Constable, a Deputy Shellfish Constable, or an Ipswich Police Officer confiscates shellfish, he/she shall sell or reseed the shellfish at the direction of the Shellfish Constable. All receipts from a sale must be deposited in the Town treasury.

## **SECTION 12 - CONFORMANCE TO STATE AND LOCAL LAW**

The holders of permits issued for the harvesting of shellfish must at all times conform to the provisions of Chapter 130 of the Massachusetts General Laws, as amended, all local rules and regulations, and any subsequent amendments thereto.

## **SECTION 13 - SHELLFISH GRANT REGULATIONS**

The Town of Ipswich advocates and supports the orderly development of private aquaculture that is complementary to the continuing development of the Town's shellfishery. In consideration of approval of any aquaculture grant, the Town is obligated to protect and preserve the existing fisheries and to minimize the impact on other uses of the marine environment. The right of public navigation through a grant area shall not be infringed upon, except in areas containing approved equipment. The size and scope of the grant shall co-exist with, and not diminish, the common property commercial and recreational shellfisheries and other existing water-related activities.

Shellfish grants may be approved by the Select Board, subject to the following conditions:

A. General Provisions

1. Grants shall be issued only for the purpose of farming soft-shell clams.
2. The Select Board may issue a moratorium on the issuance of new grants.
3. The maximum size of a grant shall be one (1) acre.
4. An individual may not hold more than one (1) grant at any time.
5. Grants shall be issued only to individuals holding a Town of Ipswich commercial clamming permit.
6. Each grant shall be held individually, and the grantee shall be responsible for the care of his/her grant.
7. Potential grant sites shall be reviewed by the Shellfish Advisory Board. Grants shall be issued only in areas that have been identified as non-productive. It shall be the duty of the Shellfish Constable to identify, map, and present evidence before the Shellfish Advisory Board of the following:
  - (a) The area being considered is non-productive and has been non-productive for at least fifteen (15) years;
  - (b) If the proposed area is privately owned by an organization or individual, the owner will allow such use; and
  - (c) The proposed grant area is not in an area with significant conflicting uses, such as a mooring area, public beach, etc.

The Shellfish Constable's reports of the findings of non-productive areas and the report of the Shellfish Advisory Board regarding its review of the Shellfish Constable's report shall be forwarded to the Select Board in conjunction with any application.

8. All grants shall take effect on January 1 of each grant period and terminate on December 31 of each grant period.
9. All grants shall expire at the end of a twelve (12) year period. At this time, the private grant area and all shellfish remaining on the grant area shall return to the Town for public use.
10. The grantee shall file all reports relative to the activities of the grant, amounts harvested from the grant and any and all other information required by law or the issuing authority with the Chief of Police, the Shellfish Constable and the Town Clerk no later than December 31 of each year. Any and all fees shall be paid at this time.
11. An annual review of each grant will be conducted by the Shellfish Constable in order to determine reasonable production value.
12. The Shellfish Constable shall provide a summary report of all grant activities to the Select Board no later than January 30 of each year.

13. There shall be no subleasing of any grant.
14. A copy of the grant map and official notification of the grant shall be posted by the Shellfish Constable on the bulletin board at the police station.
15. The Chief of Police, in consultation with the Shellfish Constable, shall have the authority to establish grant procedures in accordance with these regulations.
16. The Shellfish Constable may delegate certain requirements under this Section 13 to properly appointed and sworn Deputy Shellfish Constables.
17. In addition to any application fees, all other fees shall be established by applicable Massachusetts General Laws, c.130, § 62 & 64 at the maximum amount provided therein.
18. Where applicable, and as determined by the Shellfish Constable, all grantees are expected to adhere to the current version of the publication "*Best Management Practices for the Shellfish Culture Industry of Massachusetts.*" This publication shall be kept on file by the Chief of Police and the Shellfish Constable. A copy shall be provided to all approved grantees.
19. All grants are subject to the provisions of Chapter 130 of the General Laws of Massachusetts, and all other applicable federal, state and local regulations.
20. Except as noted in this Section 13, all other Shellfish Rules and Regulations and pollution and red tide closures shall apply to shellfish grants.

B. Initial Application

1. Applicants for new grant shall complete and submit all information required on the Town's application form, signed under the pains and penalties of perjury, to the Chief of Police during the period of four (4) days immediately following the Labor Day holiday. This is the only time period that new applications will be accepted.
2. A fee of One Hundred (\$100.00) Dollars, payable to the Town of Ipswich, shall be submitted to the Chief of Police with the grant application.
3. All local tax obligations must be paid.
4. As part of the application, the applicant must submit an aquaculture plan acceptable to the Shellfish Advisory Board and to the Shellfish Constable that encompasses all aspects of the planned activities on the grant.
5. Following the receipt of a grant application, the Chief of Police shall consult with the Select Board to establish a public hearing date.
6. Each time a new grant area becomes available, it will be awarded by a new lottery.
7. An initial grant shall be for a period of three (3) years. By August 31 of the third year, the Shellfish Constable shall determine if productivity in accordance with the aquaculture plan filed with the original application has been demonstrated.

C. Renewal

1. A grant may be renewed up to a maximum of twelve (12) years. Renewals will be granted in three year increments. During the first renewal period, the first year would require a further increase in productivity as determined by area worked or harvest of at least 10%; the second year, at least 20%; and the third year, at least 30%. The Shellfish Constable shall monitor and report to the Select Board each year as to whether or not these standards have been met. The Shellfish Constable's reports shall be due to the Select Board as follows:
  - (a) Year 1: Constable's report due by December 31.
  - (b) Year 2: Constable's report due by December 31.
  - (c) Year 3: Constable's report shall be due by August 31.

Failure to meet said productivity standards may result in the forfeiture of the grant.

2. All applications for renewal shall be submitted in a manner consistent with these rules and regulations and in a form as determined by the Chief of Police.
3. All applications for renewal shall be submitted to the Chief of Police during the period of four (4) days immediately following the Labor Day holiday. This is the only time period that renewal applications will be accepted.
4. Time deadlines for renewals shall be strictly enforced.
5. A renewal application fee of One Hundred (\$100.00) Dollars, payable to the Town of Ipswich, shall be submitted along with the renewal application.
6. Grantees shall provide any and all information requested by the Shellfish Constable as may be necessary for the Shellfish Constable to determine the viability of the grant.
7. Approval of any aquaculture grant renewal shall be subject to all applicable federal, state and local laws, rules and regulations in force and as amended from time to time.

D. Harvesting

1. The daily harvest limit from any grant shall be twice the daily limit in Section 3 of the Shellfish Rules and Regulations.
2. The grantee must notify the Shellfish Constable at least twenty-four (24) hours in advance for each day harvesting is planned on the grant.
3. The grantee shall be prohibited from harvesting from any other area on any day that shellfish are harvested from his or her grant.
4. One additional harvester may assist the grantee, provided that:
  - (a) The assisting harvester holds a Town of Ipswich commercial shellfish permit.

- (b) The total of the combined harvest from the grant area does not exceed the daily harvest limit set forth in Subsection D.1 of this Section 13.
- (c) The additional harvester is prohibited from harvesting from any other area on any day he/she harvests from the grant.
- (d) The Shellfish Constable is notified at least twenty-four (24) hours in advance of the name of the additional harvester.

E. Farming Activities

1. Following the issuance of a grant, and prior to any work being done in the grant area, the grantee shall:
  - (a) Provide the Town Clerk with the required fees.
  - (b) In the presence of the Shellfish Constable, properly mark the boundaries of the grant with approved wood or metal stakes and approved form of floatation devices and/or painted markers sufficient to properly identify all pertinent boundaries of the grant.
2. Prior to any work commencing on a grant, the grantee shall mark any and all gear placed upon flats or in waterways so as to identify ownership in a manner determined by the Shellfish Constable. The grantee shall be responsible for the proper care and security of any and all gear placed upon flats and in waterways.
3. Additional persons will be allowed to work on the grant, provided he/she holds a Town of Ipswich commercial shellfish permit.
4. At least twenty-four (24) hours prior to the commencement, the grantee shall notify the Shellfish Constable of the nature of all farming activities expected to be performed on the grant, as well as the name of any other participant.
5. The grantee must be present when any and all work is performed on the grant.
6. In the event of illness of the grantee, the Shellfish Constable shall be notified and, if appropriate, may allow work to be performed in the grantee's absence, provided that the provisions of this Subsection E are adhered to.
7. A grantee is prohibited from transplanting any size shellfish.
8. A grantee shall purchase seed only from organizations properly licensed and certified for this business by the Commonwealth of Massachusetts. In all instances of seed purchase and prior to introduction of seed onto any flat, the grantee shall provide documentation to the Shellfish Constable identifying source of said seed.
9. The grantee assumes all liability for all gear and tackle used on the grant. All gear must be maintained in a safe and proper manner so as to prevent any incidental obstacles or damage to safe passage, navigation and the environment.

10. If, in the judgement of the Shellfish Constable, any gear must be removed from the grant, it shall be the responsibility of the grantee to remove said gear. Within seven (7) days following issuance of an order by the Shellfish Constable to remove the gear, if the grantee has not complied with this order, the Town may cause such gear to be removed at the expense of the grantee.

F. Enforcement and Penalties

1. Any information on a grant application that is determined to be untruthful, before or after approval of any grant application, may be grounds for denial or forfeiture of a grant.
2. In addition to any other penalty as determined by law, it shall be considered a violation to dig or remove shellfish from a shellfish grant, not being the grantee or a person named as a harvester by the grantee. Following a hearing and determination before the Select Board, the penalty for digging or removing shellfish illegally from a grant area will be the revocation of the Town of Ipswich commercial shellfish permit for one year. At the end of the revocation period, any person wishing to reestablish his/her commercial shellfish permit may do so through an initial application and will be subject to the commercial permit cap.
3. In addition to any other penalty as determined by law, following a hearing before the Select Board, any person holding a shellfish permit issued by the Town of Ipswich who has been found to have caused malicious damage to a private grant or the equipment thereon, or to the Town of Ipswich's public aquaculture program or the equipment thereon, shall have his/her permit revoked for one (1) year. Reinstatement of a commercial shellfish permit shall be subject to the initial application process and shall be subject to the commercial permit cap.
4. Any grant shall be declared void and forfeited if the holder of same ceases to be a resident of the Town of Ipswich.
5. If a grantee's commercial shellfish permit is revoked for any reason, the grant shall be immediately forfeited.
6. Failure to comply with any of the aforementioned laws, rules and regulations shall be cause to revoke the grant following a hearing before the Board of Selectmen.
7. If a grant is revoked or forfeited, all shellfish on the grant shall become the property of the Town of Ipswich.
8. The holder of a grant that has been revoked or forfeited shall not be eligible to apply for a new grant for a period of five years and shall be subject to the initial application procedures.

G. Authority

These regulations are adopted pursuant to M.G.L. c. 130, §§ 52 and 57, and are intended to establish uniform rules and policies for the issuance of shellfish aquaculture licenses under M.G.L. c. 130, § 57, and for the enforcement thereof. Nothing in these regulations shall be deemed or interpreted to limit or impair the rights or authority of the Director of the Division of Marine Fisheries, or of the public, under said chapter.

## **SECTION 14 - PENALTIES FOR VIOLATIONS**

The penalties for violations of these rules and regulations are as follows, and apply to all recreational and commercial permits:

1<sup>st</sup> Offense: \$300.00 fine

2<sup>nd</sup> Offense (within one calendar year of the first offense):

\$300.00 fine and ten (10) harvesting day suspension of shellfish permit

3<sup>rd</sup> Offense (within one calendar year of the second offense):

\$300.00 fine and revocation of shellfish permit for one (1) year- Commercial holders will be considered new applicants

or as otherwise provided by Chapter 130 of the Massachusetts General Laws, as amended.

In addition to any other penalty as determined by law, following a hearing before the Select Board, any person holding a shellfish permit issued by the Town of Ipswich who has been found to have harvested from and/or caused malicious damage to a private grant or the equipment thereon, or to the Town of Ipswich's public aquaculture program or the equipment thereon, shall have his/her permit revoked for one (1) year. Reinstatement of a commercial shellfish permit shall be subject to the initial application process and shall be subject to the commercial permit cap.

Enforcing authorities are authorized to confiscate any shellfish and or marine worms harvested in violation of the Shellfish Rules and Regulations and dispose of such shellfish and or marine worms.

The Select Board may suspend or revoke any shellfish permit for the violation of these rules and regulations following a hearing and the conviction of a violator.