



TOWN OF TRURO

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REGULATIONS FOR COMMERCIAL AQUACULTURE LICENSES

Adopted by the Select Board March 20, 2012

with amendments through May 22, 2013; April 8, 2014; July 14, 2015; August 28, 2024

GENERAL

The following regulations are promulgated in compliance with MGL Ch 130 ss 57-68 for the establishment of Commercial Aquaculture License Sites within the boundaries of the Town of Truro. These regulations are in addition to other shellfish regulations approved by the Select Board. Compliance with relevant statutes and regulations will ensure the orderly and successful implementation of the policies established by the Board in conjunction with the Massachusetts Division of Marine Fisheries (Division).

1. Commercial Aquaculture licenses may be awarded to Truro residents who can show to the satisfaction of the licensing authority that they have been a bona fide domiciled resident of the Town of Truro.
2. Applicants desiring a license shall be required to complete and submit all information required on the Town's approved application form.
3. License applications shall be considered on a first-come, first-served basis within the limitations of acceptable and available areas. The Shellfish Constable¹ shall make recommendations to the Shellfish Advisory Committee on those areas. The Select Board may issue a moratorium on license approvals at any time this action is deemed appropriate and in the best interest of the town.
4. Licenses approved shall be subject to certification by the Massachusetts Division of Marine Fisheries in compliance with Chapter 130 of MGL and 322 CMR 15.04 and be licensed by the Army Corps of Engineers in compliance with Section 404 of the Clean Water Act.
5. When the Aquaculture Development Area (ADA) Grants are all allocated to license holders, a Waiting List will be established. The order of the list shall be determined by the date of acceptance of complete applications submitted to the Shellfish Constable.

¹ 'Shellfish Constable' referenced herein is position responsible for Shellfish Constable responsibilities, which may be titled 'Harbor Master/Shellfish Constable' or the similar."

Interested parties must complete the Commercial Aquaculture License Application and pay the \$10.00 application fee in order to be considered and placed on the ADA Waiting List. As grant space becomes available, the Shellfish Constable will notify the individual(s) on the Waiting List in sequential order. If an individual elects to not accept the opportunity to obtain a Licensed Grant in the ADA, for whatever reason, they may elect to retain their order on the Waiting List and give the next individual on the Waiting List the current License.

All individuals who wish to remain on the Waiting List must pay the required annual fee of \$10.00 no later than January 1st of each calendar year in order remain on the Waiting List for the next year. (IE: Pay \$10.00 on Dec 28th, 2015, for the 2016 calendar year Waiting List)

APPLICATION

Applications for Commercial Aquaculture licenses shall be submitted on the Town's Application for Shellfish License form. Each application shall include, but not be limited to, the following items, as required by the Massachusetts Division of Marine Fisheries:

1. Detailed site plan including latitude and longitude of corners (meters & bounds)
2. Geophysical site characteristics
3. Benthic habitat conditions
4. Proposed species, quantities and densities
5. Proposed physical structures (all attendant gear & anchoring systems)
6. Proposed method and details of access to the site
7. Evidence of Municipal Wetlands permit or determination of non-applicability
8. Evidence of application for Corps of Engineers, Section 404 Permit or Programmatic General Permit

6. For the license application within the designated Aquaculture Development Area (ADA) designated by the Select Board, the application shall provide the exact location of the individual one-acre site or sites and acreage which is requested.

After consultation with the Shellfish Advisory Committee, the Shellfish Constable may recommend a different size grant than that for which an applicant has applied depending on the Shellfish Constable's assessment of the applicant's experience, resources, available time to farm and his/her best estimate of the overall demand for the sites. License sites will require approval from the Board of Selectmen.

7. Following receipt of the acceptable and complete license application, the Select Board shall establish a public hearing date. At least fourteen (14) days prior to the hearing the Board shall take necessary action to publish a legal notice before the hearing in a newspaper with local distribution. In addition, a hearing notice shall be posted at the Town Hall and two other places in Truro.

8. The license permit application may be subject to review by the Shellfish Constable , the Shellfish Advisory Committee and by the Truro Conservation Commission,

9. The Select Board shall hold a public hearing and either approve, conditionally approve or deny the License.

A. If the license site has been inactive for a period of more than two years the Shellfish Constable shall make an inspection of the license area together with the Massachusetts Division of Marine Fisheries which shall prepare a written report on the standing shellfish within the license area in order to determine productivity of the site.

B. If the license is approved, the Select Board shall issue a license permit and license number in accordance with established regulations. Final location of the licensed area is subject to decision by the Select Board.

10. In the event that an applicant is approved for a license, the initial license term will be for two (2) years. License renewals, following the initial two (2) year term, may be requested for a period of up to five (5) years.

The License Holder must be in good standing with and shall comply with all Federal, State and Town regulations while holding the license. The License Holder shall provide information related to activity on the license site, at least annually.

In order to be reviewed and considered for renewal, the License Holder must have complied with all of the following four items:

- a) All Town fees paid in full
- b) Compliance Bond must be current and in full force
- c) Evidence of Propagation Permit from DMF
- d) Compliance with Annual Activity Report Submission

If the License Holder fails to comply with any or all of the items listed above, the license renewal will not be recommended by the Shellfish Advisory Committee or Shellfish Constable. All License Holder renewals shall be subject to review and approval by the Shellfish Advisory Committee and endorsed by the Shellfish Constable prior to final presentation, review and potential approval by the Select Board.

11. Annual reporting shall be completed on forms provided by the Shellfish Constable to each license holder on or before December 31 of each year for the previous year's effort. Within thirty (30) days, the Shellfish Constable shall review the license report submitted by the License Holders and submit a copy of said report to the Select Board . The License Holder shall produce documents at the request of the Shellfish Constable showing shellfish purchase and sales slips.

12. Each license shall be reviewed annually by the Select Board and the Shellfish Constable involving a review of the license holder's yearly production report. If it cannot be shown by the license holder that a reasonable amount of shellfish has been produced on the license area during the preceding year the license may be revoked by the Select Board. As a minimum for the purposes stated a reasonable amount shall not be less than the statutory requirements as set forth by Section 65 of MGL Chapter 130. Applicant shall be responsible for state reports.

REQUIREMENTS

13. Licenses may be transferred or sublet with prior approval and endorsement by the Shellfish Advisory Committee and Shellfish Constable with final approval from the Select Board; the license shall be exercised by the License Holder, immediate family and/or employees; exceptions may be permitted for reasons of hardship. Employees of the License Holder must be added to the License Holders permit with the Massachusetts Division of Marine Fisheries. The Shellfish Constable must also be notified.

14. It is the responsibility of the License Holder to comply with all relevant sections of the General Laws; Massachusetts Division of Marine Fisheries regulations and the Department of Public Health regulations regarding handling transport and sale of shellfish grown on the licensed site including permits for possession of seed and sale and processing as described in 105 CMR 533 and 322 CMR 15.

15. With the exception of the Shellfish Constable, it shall be unlawful for the License Holder to take seed shellfish from any waterway in the Town of Truro without written permission from the Select Board.

16. It shall be unlawful for any License Holder to transfer to or from the licensed site any contaminated shellfish. Any shellfish transferred to a licensed site must come from the hatcheries certified and approved by the Division of Marine Fisheries as disease- free.

17. The Town of Truro Shellfish Constable shall be notified prior to any transfer of seed or shellfish, stating the location and name of the company from which the seed or shellfish are purchased, the date of the transfer and proof of certification.

18. The Town of Truro reserves the right to obtain samples of any shellfish from the licensed area for the purpose of disease testing by a certified laboratory or company.

19. The Shellfish Constable shall have authority to inspect the licensed area including the contents of all boxes or other containers at any time.

20. The License Holder shall assume liability for all gear used in shellfish farming, such as but not limited to cages, racks, vexar bags, zip-ties etc. If any such gears/items are moved by a storm or other event to a location off the licensed site, it shall be the responsibility of the License Holder to remove it. If within three weeks the License Holder has not complied with this requirement, the Town, through the Shellfish Constable may cause such gear/items. to be

removed and may bill the License Holder. For purposes of identification all gear used by the individual license holder shall bear the Truro Aquaculture license site number. When a license is discontinued or terminated for any reason, the license holder shall be required to remove all gear/items from the waters and substratum within thirty (30) days of the license expiration date. Any and all equipment not removed within thirty (30) days may be recovered by the Town through the Shellfish Constable at the License Holder's expense.

21. License Holder is responsible for maintaining gear/items within the boundaries of their grant at all times. Failure to do so should be reported to the Shellfish Constable who will take appropriate corrective action(s).

22. Inasmuch as this ADA lies within a Critical Habitat area for marine mammals all floating gear which is affixed to the bottom shall be in compliance with the provisions and requirements of the Massachusetts Division of Marine Fisheries. This shall include marker buoys, and their attachment lines. The License Holder shall be in compliance with any Department of Marine Fisheries or NOAA Regulations promulgated in the future to further the goals of the Federal Marine Mammal Protection Act.

23. For the purpose of retrieving fixed gear from the ocean floor during periods when the Massachusetts Division of Marine Fisheries regulates the use of vertical lines aimed at protecting endangered species, License Holders may have one vertical line per acre, with a 600 lbs. breakaway link or ROABS (ropes of appropriate breaking strength per ALWTRP) attached to shellfish cages, bags or containers at the shallowest depth of the lease for the purposes of retrieving marketable product and/or managing their farm.

24. An area of twenty-five (25) feet inside the perimeter of the license site abutting another site shall remain unobstructed for passage of other License Holders.

25. Should license boundary disputes arise among license holders, they shall first take their dispute to the Shellfish Constable for resolution. Should this prove unresolved, the Select Board may require an engineered survey of the licensed areas in question. Such survey would be performed at the License Holder's expense.

26. No persons, other than Licenses Holders, may moor a vessel within twenty-five (25) feet, at rest, of a licensed grant site area.

FEES

27. In the event that the applicant is required to present at a public hearing, a fee will be charged. Payment of such fee is due at the time the application is submitted to the Select Board. The fee will be consistent with whatever the currently established public hearing fee is at the time.

28. A fee of \$25 per acre or part thereof shall be payable at the time of license approval. An annual license fee of \$25.00 per acre shall be paid by the license holder, payable on or before January 1st of each year thereafter. If the fee is not paid within 6 months after it is due, the license shall be deemed forfeited and may be revoked.

29. The license holder shall post a Compliance Bond for the licensed area or part thereof to ensure compliance with these regulations. The bond amount shall be \$10,000.00 for licensed areas ranging from one to five acres. In the event a license holder has a licensed area in excess of five acres; the bond amount shall be increased to \$20,000.00. The license holder shall provide the Town of Truro a fully executed Surety Rider naming the Town as the Obligee.

Submitted for consideration by Truro Shellfish Advisory Committee, February 21, 2012. Went into effect March 20, 2012; amended May 22, 2013; amended April 8th, 2014; amended July 14, 2015; amended August 28, 2024



Susan Areson, Chair



Nancy Medoff, Clerk



Stephanie Rein

Town of Truro



Robert Weinstein, Vice-Chair



Susan Girard-Irwin