

Aquaculture License Regulations Town of Oak Bluffs

- 1) Prologue: The Town of Oak Bluffs advocates the orderly development of Aquaculture that is complementary to the continued development of the Town's fisheries. In consideration of any Aquaculture license the Town is obligated to protect and preserve the existing fisheries and to minimize the impact on other uses of the marine environment. Aquaculture will be allowed outside the Town's coastal ponds.
- 2) Eligibility: The applicant must hold or meet the requirements to hold a commercial shellfish license in Oak Bluffs and be a United States citizen. The Aquaculture license shall be forfeited if the licensee ceases to meet these requirements.
- 3) Application: There shall be a non-refundable application fee of one hundred dollars (\$100.00) and a renewal application fee of twenty-five dollars (\$25.00). The application fee shall be submitted with a completed application form. The application shall be submitted under the pains and penalties of perjury. **If it is not a renewal of an aquaculture license**, a notice of intent must be filed with the Oak Bluffs Conservation Commission on the same day as the application.
- 4) Upon receiving completed application: The Selectmen shall forward copies of the application to the Shellfish Department, Shellfish Advisory Board, Harbor Master and Conservation Commission for comment. Written comment must be returned to the Selectmen within thirty (30) days. The Selectmen shall hold a public hearing within sixty days (60). The Selectmen shall notify the applicant at least fourteen (14) days prior to the public hearing of the time, date and place of the hearing. The applicant will be required to notify all abutters (as certified by the Board of Assessors) within five hundred (500) feet of any point along the perimeter of the requested grant site by certified mail return requested. The abutters must be notified at least ten (10) days prior to the public hearing date. The certified mail receipts must be submitted to the Town at the time of the public hearing. The Selectmen shall post a notice of public hearing in the Town Hall, and at least two (2) other public places, also in a local newspaper at least one week (7 days) prior to the hearing date (section 60, chapter 130 of MGL). In reviewing an application for a new license or an amended license, the Selectmen shall determine whether the shellfish Aquaculture plan proposed by the applicant meets all of the requirements of these regulations and the provisions of MGL c 130; whether the plan proposed by the applicant is designed so as to cause no substantial adverse effect on the shellfish or other natural resources of the Town; whether the granting of the license will obstruct navigable waters; and whether the proposed plan is consistent with the purposes of these regulations to protect and preserve the existing fisheries and minimize impact on other uses of the marine environment. Upon reviewing the application, and following the public hearing, the Selectmen may grant the license, grant the license with conditions, or deny the license.

- 5) Approval of any Aquaculture license shall be subject to all Federal, State and Local laws, rules and regulations as in force and as amended from time to time and the licensees shall comply with any of the aforementioned laws, rules, and regulations. The licensee is expected to be familiar with relevant laws, rules, and regulations. The licensee is required to obtain all other relevant licenses and begin working the site within one year of being issued the license or this license will be considered forfeited.
- 6) Licenses are issued to and for the exclusive use of the licensee who may contract with or employ others to work for the licensee. Sub-leasing of a licensed area or any part of is prohibited. Licenses are renewable and heritable, subject to the Selectmen's written approval and the provisions of Massachusetts General Laws Chapter 130.
- 7) All proposed changes to the original working plans as described in the application, and all additions of material investments, which may include, but not limited to, rafts, barges, floats, racks, cages, trays, pens, nets, etc. shall be submitted to the Shellfish Department for review. If the proposed changes are not substantial, the Shellfish Constable shall either approve the changes or approve the changes subject to reasonable conditions. If the proposed changes are substantial changes such that further review is warranted, the Selectmen in accordance with the procedures set forth in paragraph 4 of these Regulations. Upon review of the proposed changes, the Selectmen may approve, approve with conditions, or deny the proposal. For purposes of this paragraph 7, a substantial change warranting further review by the Selectmen shall be any amendment to the working plans which increases the area used by the license holder for Aquaculture; which would enable the license holder to grow or harvest additional shellfish; which may affect the navigable waters; which changes the form of Aquaculture or the category or Aquaculture performed by the license holder; any change which may negatively affect the marine environment.
- 8) A new license shall be issued for a period not to exceed three (3) years for a maximum total area not to exceed two (2) acres. The licensee may apply for renewal license at any time within one (1) year of the expiration date of the license. The Selectmen shall review the licensee's request for renewal sixty (60) days after the receipt of renewal application. A license may be renewed for up to three (3) years.
- 9) No person shall hold more than two (2) licenses or more than a total of four (4) acres.
- 10) The annual license fee shall be twenty-five (\$25.00) dollars per acre or any part thereof. The annual fee shall be paid to the Town's Shellfish Revolving Fund at the time the license is issued and be due on or before December 31st of each year. If the fee is not paid within thirty (30) days after it becomes due the license shall be forfeited.
- 11) An annual review of each license will be conducted by the Shellfish Department and Shellfish Committee in order to determine reasonable production value. If after the fourth year of a new license and any year thereafter, any licensee can not show a reasonable amount of product has been produced on the licensed site the preceding year; the license may be forfeited. For the purposes stated herein, reasonable amount of product shall mean not less than fifteen hundred (\$1,500.00) dollars per acre based on the current market value

(as per section 65 of MGL Chapter 130). If, the licensee does not meet the reasonable production value then upon written request to the Selectmen said production value may be waived at the discretion of the Selectmen for that particular year, provided the licensee can demonstrate to the Selectmen that the cause of the lower amount was the result of a natural disaster or other unforeseen personal misfortune.

- 12) Licensees shall file annual reports with the Shellfish Department on or before December 31 of each year, as per section 65 of MGL chapter 130 and shall, upon request of the Shellfish Department produce documents showing the total amount of each species marketed during the preceding year. Also provide an estimate of the total number of each species remaining on the site.
- 13) No person shall transplant seed, seed stock, or stock from the public fisheries within the Town, for purposes of stocking a licensed Aquaculture site with such seed or stock. No aquaculture stock can be released into public areas without permission of the Shellfish Constable.
- 14) Licensed area boundaries must be marked at least every one hundred (100) feet by buoys conforming to MGL and at all changes of angles. These buoys shall bear the license number, said numbers being not less than two (2) inches in height. It is the responsibility of the licensee to keep the buoys and lines in good repair. Failure to properly mark the boundary shall be prohibition of the licensee seeking damages under these regulations from parties doing unintentional injury to the license.
- 15) The license holder assumes all liability for all gear and tackle used on the license. If any gear is moved to a location off the license, it shall be the responsibility of the licensee to remove said gear. If within seven (7) days after notification to the licensee by the Shellfish Department the licensee has not complied with this requirement the Town may cause such gear to be removed at the expense of the licensee. All floating or suspended gear and cages shall bear the license number.
- 16) When a license is discontinued or terminated for any reason, the licensee shall be required to remove all gear and tackle from the waters and substrate within thirty (30) days of the license termination date. Any and all gear and tackle not removed within thirty (30) days may be removed by the Town at the expense of the licensee. The licensee shall post a five thousand (\$5,000.00) dollar bond to insure compliance with the above provisions.
- 17) The Shellfish Constable and/or Deputies shall have the authority to inspect the licensed area at any time and said inspection may include any and all containers on the site. The Town of Oak Bluffs reserves the right at any time to obtain samples of any species held in the licensed area for the purpose of certified testing for disease.
- 18) It shall be prohibited for any licensee to transfer to or from the licensed area any contaminated shellfish unless it falls within the Commonwealth of Massachusetts Division of Marine Fisheries guidelines. Any seed shellfish transferred to a licensed area must come from hatcheries certified by the Commonwealth's Division of Marine Fisheries to be

disease free. Applicant must obtain a propagation permit from the Commonwealth's Division of Marine Fisheries.

- 19) The Town's Shellfish Department shall be notified at least seven (7) days prior to any transfer of shellfish to the licensed area, stating the source and species of shellfish.
- 20) Violation of these rules and regulations will subject the licensee to review and possible revocation of the license by the Board of Selectmen, following a public hearing held and conducted in accordance with the procedures set forth in paragraph 4 of the regulations.
- 21) If any provision of these rules and regulations is declared invalid by any court or tribunal of competent jurisdiction, the remaining provisions of these rules and regulations shall not be affected thereby.
- 22) The Board of Selectmen may issue a moratorium on license approvals at any time this action is deemed in the best interest of the Town.
- 23) The licensee shall not hold the Town liable for any damage or injury to the licensed area due to any dredging or improvements done in the best interest of the Town.
- 24) All gear, except work platform, buoys, and raft must be submerged as not to interfere with boating passage.

Date Adopted by Board of Selectmen:

December 12, 1995

First amendment:

March 19, 1996

Second amendment:

January 28, 2014

Third amendment:

November 29, 2016

Board of Selectmen:
