

TOWN OF BOURNE

AQUACULTURE LICENSES / SHELLFISH GRANTS

Rules & Regulations & Application Requirements

At a regular meeting of the Board of Selectmen held on December 6, 2011 the following rules and regulations were adopted covering Aquaculture Licenses and Shellfish Grants.

8.1 The Board of Selectmen may license specific areas of the waters of the Town of Bourne to individuals for the purpose of granting exclusive rights to plant, grow, and take shellfish from that area, said license to be subject to the provisions of MGL Ch. 130, Sec. 57 and any terms, conditions, and/or restrictions set forth in the regulations of the State, Town, its By-laws, or any specific conditions or restrictions set forth in the license. Applicants shall be considered on a first come first serve basis. The Board of Selectmen may deny a license or establish a moratorium on the issuance of licenses at any time this action is deemed to be in the best interest of the Town.

8.2 Licenses will be issued only to domiciled residents of the Town of Bourne who have the knowledge, experience, and resources to fulfill the responsibilities specified in the license. The applicant shall furnish evidence of residency as part of the application process. Said evidence to include, but not necessarily be limited to, the following: a current motor vehicle driver's license issued by the Commonwealth of Massachusetts, a valid, current real estate tax bill issued by the Town of Bourne, and evidence of current ownership or tenancy by rental of real estate of a primary residence within the Town of Bourne. At such time as a licensee ceases to be domiciled in the Town of Bourne, it is the responsibility of the licensee to notify the Board of Selectmen of this change of residence. The Board of Selectmen will then remove the name of that individual from the license. This permit shall not be sold or transferred without written permission from the Board of Selectmen.

8.3 The Board of Selectmen will accept and process applications for aquaculture licenses in accordance with MGL 130, Sec 57. Applicants desiring a shellfish grant are required to complete and submit all information required by the Town's application form. Applicants shall also furnish a detailed proposal to include short term and long term plans for developing the Aquaculture/Grant site. Proposals must include shellfish species, amounts and sizes intended to introduce to the waters. Must also include the number of racks, pens, cages, floats, etc. that you

intend to use and their dimensions. Applicant must also provide detailed information regarding their experience with aquaculture. Licenses will be granted or denied within sixty days of receipt of application.

8.4 This license does not grant any property rights. This license does not authorize any injury to private property or invasion of private property rights. The issuance of this license is not a determination of title or ownership.

8.5 The initial term for a new license will be two (2) years. The term for renewals will be two (2) years. Renewal will be subject to approval of the Board of Selectmen and any other appropriate and /or required governing bodies as set forth by Chapter 130 Section 60 of M.G.L. License holder must show that a reasonable amount of shellfish have been produced on the grant during the preceding year. This amount shall not be less than what is required in Chapter 130 Section 65 of M.G.L.

8.6 Licenses will be issued for a one (1) acre maximum the first year. Once planted and established, licensee can apply for more acreage if the lease demonstrates productivity and the capability to expand.

8.7 Means of harvesting shellfish from the approved grant area will be limited to the use of quahog rake, tongs, scuba gear or conventional scallop dredge unless specific written approval to use other means is obtained from the Board of Selectmen and the shellfish constable. Harvesting will not take place between the hours of one half hour after sunset and one half hour before sunrise.

8.8 The placement of moorings and ground tackle for rafts, racks and floats, or any other structure will be subject to approval from the Harbormaster, Conservation Commission and the Corps of Engineers. Rafts and racks may or may not be approved for the grant area (depending on the location of the specific site). Shellfish will not be rafted outside the perimeters of the approved grant area without written permission from the Harbormaster and Shellfish Constable.

8.9 It will be unlawful for the Grant-Holder or any person to take seed shellfish from any waterways or flats of the Town other than the designated grant area without written consent to do so from the Selectmen and the Director of the Division of Marine Fisheries.

8.10 The Shellfish constable and / or his assistants, in the presence of the permit holder or his agent, will have authority to inspect the Grant area to include the contents of any and all rafts, floats and other containers.

8.11 If in any given year, it is determined by the Shellfish Constable that there is a marketable concentration of scallops in the grant area, then it will be the responsibility of the Grant-Holder to relocate said scallops to an area designated by the Shellfish Constable. The Grant-Holder by agreement with the Shellfish Constable may elect to allow the harvesting of scallops by licensed members of the general public upon his grant area for the sole purpose of harvesting scallops by either dip netting or dragging. If the grant-Holder elects to allow the harvesting of scallops

upon his grant a mutually agreed time period, method of taking, etc. shall be specifically established to permit this by the Grant-Holder, the Shellfish Constable and the Board of Selectmen.

8.12 If at any time it becomes necessary to dredge and / or otherwise accomplish maintenance dredging on or within the vicinity of the grant area to improve or maintain channels for navigation purposes the Grant-Holder will agree under terms of the contract not to obstruct said dredging plans and operations. The Grant-Holder will be given 90 days notice prior to commencement of any dredging operations. Prior to, during and after dredging operations are completed and if in the opinion of the Grant-Holder, the Shellfish Constable and the State Marine biologist, that said bottom conditions are considered temporarily unsuitable for planting or maintaining shellfish, immediate and temporary permission for relocation of Grant-Holders stock shall be considered by the Board of Selectmen. All the foregoing regulations shall apply to any temporary placement of said shellfish. In the event that shellfish need to be relocated under these conditions they shall be relocated at the expense of the Grant-Holder.

8.13 When a Grant is discontinued and / or terminated for any reason, the Permit Holder will be required to remove all rafts, racks, floats, boxes, pens, boundary markers and equipment from the waters and substrate within 90 days from the Grant expiration date. In addition, the Permit Holder will be required to provide proof of a General Liability Insurance Policy in the amount of \$1,000,000.00 naming the Town of Bourne as an additional insured.

8.14 Written permission must be obtained from the Board of Selectmen, the Shellfish constable and the Conservation Commission prior to any alterations being made in or on the ground area of the Grant that were not made part of the initial Grant application.

8.15 The Grant-Holder will be required to hold a Town of Bourne Commercial Permit and required state permits to handle seed and propagate shellfish in compliance with the MGL Chapter 130. The Grant-Holder will be required to comply with all rules and regulations governing shellfish and grants as forth by the Town of Bourne and MGL Chapter 130, Section 57 thru 68 and MGL Chapter 131, Section 40. Failure to comply with the aforementioned laws and regulations will be deemed cause to revoke the Grant Permit.

8.16 If the Grant sites are approved, the applicant must have the grant site(s) surveyed at his own expense and submit a recorded plan of the specified grant area to the Board of Selectmen. The survey and the plan must be completed by a registered engineer or surveyor and the plan must be stamped accordingly. Boundaries of said Grant must be clearly identified by plastic pipe, wooden posts or floatation buoys and shall be subject to inspection and approval by the Harbormaster. Type and specific location of said boundary markers shall be shown on the plan prepared by the registered engineer or surveyor. As a minimum at least each corner of the grant area shall be marked by a boundary marker. A sign indicating the Grant permit number and name of the grant-Holder must be displayed on each corner post in compliance with MGL Chapter 130, Section 61. A sign indicating the Grant permit number and name of the grant-Holder must be displayed on each vessel moored or working within the boundaries of the approved grant.

8.17 Fees

- a) An advertising fee of \$125 for the public hearing shall be payable at the time of submitting the application form.
- b) Permit – An annual permit fee of \$25 per acre (or any part thereof) payable at time of Grant approval and then upon renewal of each year shall be required.

8.18 Grant Approval

The approval of this Grant shall be subject to the following:

- a. Any legal appeal process as outlined by the MGL Chapter 130 or Chapter 131 and/or any other law which may apply.
- b. Federal, State and Local laws, rules and regulations and amendments thereto.
- c. Annual review by the Board of Selectmen as stipulated by Town Regulations.
- d. State certification in compliance with Chapter 130, Section 61.
- e. Receipt of survey and plan stamped by a registered engineer or surveyor in compliance with section 61 of chapter 130 and local regulations.

8.19 Any violation of these rules and regulations or amendments shall be subject to a fine of one hundred dollars (\$100.00)

These Aquaculture License and Shellfish Grant Rules and Regulations were adopted by the Board of Selectmen on December 6, 2011.

PER ORDER OF THE BOARD OF SELECTMEN

Donald J. Pickard, Chairman

John A. Ford Jr., Vice Chairman

Peter J. Meier, Clerk

Jamie J. Sloniecki

Earl V. Baldwin

Timothy W. Mullen, Shellfish Constable