



TOWN OF DENNIS, MASSACHUSETTS PRIVATELY LICENSED SHELLFISH AREA PROCEDURE & REGULATIONS

Authority - Acting under the authority of MA General Laws c. 130, §52, the Select Board of the Town of Dennis hereby promulgate the following Special Regulations, which shall apply to all aquaculture

Effective Date - The following Regulations, insofar as they amend those previously adopted and effective June 15, 1993, shall take effect as revised February 10, 2009, November 30, 2021, and corrected May 20, 2025.

Definitions - To the extent applicable, and unless otherwise defined herein, the meaning of terms shall be as defined in MA General laws c.130,§1.

Applicants should be familiar with all Town Shellfish Regulations and all State laws pertaining to shellfish under Chapter 130, especially Sections 57 through 68A.

The applicant should determine the area(s) which they request as a private shellfish license site. This area should be well defined on a map and with usable shoreside land markers. The applicant should ascertain if the lands or tidal flats are under private ownership and, if under private ownership, must obtain written permission from the upland property owner for its use.

When selecting the license area it is important to note that it cannot be an area that is extensively used as part of the public recreational or commercial fishery. The area should be considered an unproductive area. Other concerns are: shellfish areas classified as prohibited or seasonally prohibited, high use mooring fields, navigable channels, public and semi-public swim areas, areas with shorefront homes owners and areas 500 feet from marinas.

The private shellfish license will be subject to review and/or approval by the following governing bodies: Shellfish Constable, Harbormaster, Conservation Commission, State Division of Marine Fisheries and the U.S. Army Corps of Engineers.

a. The State Division of Marine Fisheries may, following approval of the private shellfish license by the Select Board, review the private shellfish license application, survey the proposed area and certify that the license and operation there under would cause no substantial adverse effect on the natural shellfish resources on the Town in compliance with Massachusetts General Chapter 130, Section 57.

b. The Shellfish Constable will review the private shellfish license application and make an inspection of the proposed private shellfish license area and prepare a written assessment and recommendation of the standing shellfish within the private shellfish license area.

c. The Conservation Agent will review the proposed project and work on the private shellfish license and determine if any work, such as dredging, filling, access to and from the site and/or altering the proposed site will require either the filing of a Request for Determination or a Notice of Intent in accordance with Massachusetts General laws Chapter 131, Section 40.

d. The Harbormaster will review the private shellfish license application and make recommendations to the Select Board relative to possible hazards to navigation the private shellfish license may pose.

e. The licensee/applicant should be aware that this license is subject to further regulation by the U.S. Army Corps of Engineers Category 2 of the Massachusetts Programmatic General Permit (PGP).

f. The Shellfish Committee will hold a public hearing and make their recommendation to the Select Board.

g. Following the receipt of the application and the Shellfish Committee recommendation, the Select Board shall establish a public hearing date, publish legal notice of said hearing and take any other necessary action. At least fifteen days prior to the established hearing date the applicant shall notify all property owners within a radius of 500 feet from outside boundaries of the proposed private shellfish license area of the hearing date, time and place. Five days prior to the hearing, the certified mail/return receipts must be submitted to the Shellfish Constable. The Select Board reserves the right to approve or deny the issuance of the private shellfish license if deemed appropriate and in the best interest of the Town.

SPECIAL SHELLFISH REGULATIONS – CROWES PASTURE AQUACULTURE GRANT AREA

PRIVATE SHELLFISH LICENSE

1. Application Requirements - A license pursuant to MA General laws c. 130, §57 may be issued only to a person who maintains and is a full time resident and domiciled resident of the Town of Dennis.
 - a. The applicant shall furnish evidence of residency as part of the application process. Three (3) forms of proof must be submitted. Examples include, but are not necessarily limited to, the following: a current motor vehicle driver's license or ID issued by the Commonwealth of Massachusetts, a valid, current residential property tax bill issued by the Town of Dennis, valid Voter Registration, evidence of current ownership or tenancy by rental of real estate of a primary residence within the Town of Dennis (lease agreement), Town of Dennis excise tax bill. Information submitted with only a post office box reference shall not be acceptable to prove residency.
 - b. As required by MA General laws c. 130, §59, each application shall be made on the form provided and shall set forth the name and residence of the applicant and a definite identification of the area for which the license is being sought. The application shall also include plans for development of the license site over a one, two and three year term. The specifications should include number of rafts, racks, pens and floats, size, construction materials, and square feet of working area needed in the aquaculture area. Plans shall include shellfish by species, amount and size proposed to be propagated. In addition, any other construction which is proposed to carry out the proposed project, the access route to the license area, and any additional, pertinent information.
2. Wait List Administration
 - a. The Shellfish Constable shall maintain a Wait List of those people who have filled out Wait List Applications complete with proof of residency information outlined in Section 1a above.
 - b. A completed Crowes Pasture Aquaculture Grant Wait List Application must be submitted to be placed on the Wait List. Residency information must be updated annually by December 31st of each calendar year; with information outlined in Section 1a above.
 - c. Failure to renew or comply with residency rules will result in being removed from the list.
3. Relocation Requests
 - a. When an aquaculture grant within the Crowes Pasture Aquaculture Area becomes available, any existing grant holder may submit a request to the Shellfish Constable to relocate. Said request shall be in writing using the Aquaculture Grant Relocation Request form provided by the Natural Resources Department.

b. The Shellfish Constable will hold a random drawing of any current grant holders that have indicated they want to move and have filled out the Relocation Request form. The grant holder drawn through this random draw will have first right of refusal of the open grant. If they refuse to take the open grant, another name will be drawn. If the grant holder accepts the open grant they will have 30 days to move their equipment and activities to the new grant area.

c. Following the acceptance of an open grant by a grant holder the process described in section (b.) will begin again with their now open grant. The process will repeat until no requests for relocation are received for an open grant.

d. In the event multiple grants become available, the first name drawn from the current grant holders will have first right of refusal over the open grants, the second name drawn will have right of refusal over remaining grants, and so on. The person(s) on the Wait list will fill the remaining grant(s).

4. Licensure: A public hearing on an application shall be held pursuant to the provisions of MA General Laws c.130, §60.

a. Following the receipt of the application, the Shellfish Committee shall hold a public hearing and make their recommendation to the Select Board.

b. Following the receipt of the application and the Shellfish Committee recommendation, the Select Board shall establish a public hearing date, publish legal notice of said hearing and take any other necessary action.

5.. Terms of License –

a. A license shall be approved for a period of five years from the date of final approval by the Select Board.

b. Each licensee shall submit a completed LICENSE TO ENTER AND USE REAL PROPERTY FORM and proof of Liability Insurance Coverage no later than December 31st of each year.

c. Annual Fee - Each licensee shall pay an annual fee of \$100.00 per acre. This fee is due on or before December 31st of each year.

d. Licenses are issued to and authorize exclusive use by the licensee. Licenses may not be sold or transferred without application to the Select Board. There shall be no subleasing of any license. A licensee may contract with or employ other parties to work for the licensee, but shall not convey ownership of or any part thereof in the license. Each year, the licensee shall provide a list of those people authorized to work their grant to the Shellfish Constable. This shall include any family members actively working the grant who are Dennis residents.

e. The private shellfish licensee shall be required to hold state permits authorizing the purchase of seed, and shall hold and propagate shellfish in compliance with all applicable provisions of MA General laws c. 130 or any other applicable law. As a condition of continued licensing, the license holder shall comply with all rules and regulations governing shellfish and private shellfish licensing, whether imposed by the Commonwealth of Massachusetts, the Town of Dennis, or any other governmental entity.

f. A current licensee is eligible to apply for an extension of a license during the month prior to the expiration of the original license, but in no event sooner than the month preceding the end of the third year and no later than the month preceding the end of the fifth year, where applicable. Renewal shall be subject to the approval of the Select Board, who may deny renewal for unsatisfactory use or lack of substantial use of the licensed area. Unsatisfactory use or lack of substantial use shall include, but not be limited to, any violation of Sections 8 and 10 of these regulations.

g. No residential address may hold more than three (3) Aquaculture Grants Licenses or a total three (3) acres maximum.

6. Termination of License - When active use of a license is discontinued, abandoned, or terminated for any reason, the licensee shall forthwith remove all rafts, racks, floats, boxes, pens, boundary markers and any other gear or equipment from the waters and substratum, no later than ninety days from the expiration of the license. Any and all equipment not timely removed shall be forfeited. Licensee agrees that upon such forfeit, such equipment shall become property of the Town, which may remove or otherwise dispose of at the expense of the licensee.

7. Death of Licensee - Pursuant to MA General Laws c.130 §57, licenses shall, upon the death of the licensee, continue in full force and effect, subject to the same terms, conditions and regulations applicable to the original license, for the balance of the unexpired term, or one year, whichever is longer. Such continuation shall be only by the immediate family of the deceased licensee. For the purposes of this section, "family" is defined in §57 as "the spouse, son, daughter, mother, father, brother and sister of said deceased licensee." In the event of there being no family to exercise the license, the license shall terminate, subject, however, to any order of a court of competent jurisdiction.

At the request of a family member of the deceased licensee, the Shellfish Committee shall hold a hearing to allow the petitioner to bring his/her request to transfer the existing license rights, upon death of the original licensee, to a family member actively working the grant who meets the conditions of obtaining a license. The Shellfish Committee will make a recommendation on the license grant transfer request to the Select Board on the merits of the petitioner's request. Following the receipt of the Shellfish Committee's recommendation, the Select Board shall establish a public hearing date, publish legal notice of said hearing and take any other necessary action.

8. Standards – The Town requires that the grants be used effectively to propagate shellfish. The licensee is required to comply with the following standards in order to verify appropriate use of the license.

a. As required by MA General Laws c. 130, §65, each license holder shall maintain during the first and second year of each initial license an accumulated total of seed and gear on the licensed area with a total value of at least \$1,000.00. Starting with the third year and continuing thereafter for any remaining term of the license, the licensee shall maintain on the licensed area a minimum of \$500.00 worth of product.

Waiver of any provision of this section and the value of shellfish shall be determined by the Select Board upon recommendation of the Shellfish Constable and Shellfish Committee. Upon request of the Shellfish Constable or his deputies, the licensee shall produce documents showing evidence of shellfish purchase, which shall include receipts for such purchases. Submission of any false annual report or failure by the licensee to meet such value as established by the Select Board may result in a forfeit of the license for the licensed area.

The Shellfish Constable shall report to the Select Board as to the condition of the area, with specific reference to the licensee's compliance with the terms of the license. The Shellfish Constable shall submit to the Select Board a report on the occurrence of any events beyond the control of one or more licensees and/or other factors that might affect the ability of one or more licensees to meet the requirements of this section for licensee maintenance of annual seed, gear and production.

b. Marking and Management of Area and Gear - Each licensee shall clearly and permanently mark any and all trays, boxes, racks, cages, pens or other gear with the number assigned to the licensed area, in a clear and visible manner. Moorings and ground tackle for rafts, floats or other structures must be approved by the Harbormaster and the U.S. Army Corps of Engineers. No structure of any kind, other than spat collection devices such as so-called "Chinese hat" shall protrude more than 18 inches above the substrate.

c. Limitation on Hours of Operation - No licensee or other person shall dig, take or carry away any shellfish or shells between one half hour after sunset and one half hour before sunrise, by any method whatever, from any waters, flats or creeks for which a license under MA General Laws c. 130, §57 is required.

d. Removal of Shellfish From Licensed Area without Authorization of Licensee - Whoever, without the consent of the licensee, digs or takes any shellfish or shells from any waters, flats or creeks described in any license granted under §57 shall be subject to the fines and penalties of the Town of Dennis Regulations and/or fines pursuant to MA General Laws c. 130, §57.

e. Removal of Seed Shellfish - It is prohibited for any licensee to remove or introduce of seed shellfish from or into any waterway other than from the designated licensed area.

9. Inspections - The Shellfish Committee shall have the authority to inspect each licensed area at least two times during each 12-month period of the license. The Shellfish Constable shall have the authority to inspect each licensed area at any reasonable time as he/she determines appropriate. Such inspection may include the contents of any and all rafts, floats, trays, boxes, racks, cages, pens or other gear and other containers within the area at any time.

10. Annual Reports of Licensee - Each licensee shall annually submit a Catch Report to the Shellfish Constable, on or before December 31st each year, as provided in MA General Laws c. 130, §65. Each report shall state the total number of each kind of shellfish planted, produced or marketed during the preceding year from such licensed area. An estimate of the total number of each kind of shellfish at the time of such report planted or growing thereon, shall describe in detail any changes or deviations from the proposed development plan filed with the original application or any subsequent application. Submission of any false annual report or failure by the licensee to meet such value as established by the Select Board may result in a forfeit of the license for the licensed area.

The Shellfish Constable shall produce an Annual Report for the Select Board detailing the status of the Crowes Pasture Aquaculture Area, including a summary of the number of grants in use, the condition of the area, complaints regarding the licensed areas and any other specific items deemed appropriate for BOS input.

11. Revocation of license -The private shellfish licensee hereunder shall be required to hold state permits authorizing the purchase of seed, and shall hold and propagate shellfish in compliance with all applicable provisions of MA General laws c. 130 or any other applicable law. As a condition of continued licensing, the license holder shall comply with all rules and regulations governing shellfish and private shellfish licensing, whether imposed by the Commonwealth of Massachusetts, the Town of Dennis, or any other governmental entity.

As provided in MA General Laws c. 130, §57, the Select Board may, after a public hearing, revoke a license for failure to comply with any terms, conditions or regulations set forth in any license, these Regulations, or applicable terms and/or conditions or regulations of the Director of the MA Division of Marine Fisheries. The Select Board, upon recommendation of the Shellfish Committee, may revoke a license if the licensee fails to meet the standards set forth in Sections 8 and 10 outlined above.

12. Penalty –

a. The provisions of the regulations may be enforced utilizing the procedures contained in Massachusetts General Law Chapter 40 Section 21D as a noncriminal alternative approved at the Dennis Annul Town Meeting revised May 2009.

b. A violation of Sections 8 and 10 *of* these regulations may be punishable by a fine which shall be three hundred dollars (\$300) for each violation. An initial violation shall result in a warning, a second violation for the same rule infraction shall result in a \$100.00 fine, a third infraction shall result in a \$200 fine and so on. Violations of the Massachusetts Vibrio parahaemolyticus (Vp) Control Plan will be forwarded to the MA Division of Marine Fisheries and the Environmental Police for action.

13. Other law Applicable - The exercise of any license granted hereunder shall be subject to compliance by the license holder with all federal, State, and local laws and regulations. These Regulations and the privileges and obligations of any person licensed hereunder shall be subject to the provisions of Chapter 130, and these Regulations shall be interpreted in a manner consistent with MA General Laws c. 130, §57-68.