TOWN OF TRURO

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REGULATIONS FOR AQUACULTURE LICENSES

Adopted by the Board of Selectmen
March 20, 2012

GENERAL

The following regulations are promulgated in compliance with MGL Ch 130 ss 57- 68 for the establishment of Aquaculture License sites within the boundaries of the Town of Truro. These regulations are in addition to other shellfish regulations approved by the Board of Selectmen (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. Shellfish license may be awarded to Truro residents who can show to the satisfaction of the licensing authority that they are bona fide domiciled residents 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 Warden shall make recommendations to the Shellfish Advisory Committee on those areas. The Board of Selectmen may issue a moratorium on license approvals at any time this action is deemed appropriate and in the best interests of the Town.

4. Licenses approved shall be subject to certification by the Division in compliance with Chapter 130 of MGL and 322 CMR 15 and 322 CMR 7.01(4) and be licensed by the Army Corps of Engineers in compliance with Section 404

APPLICATION

Applications for aquaculture license shall be submitted on the Town's Application for Shellfish License. Said application shall include, but not be limited to, the following items, as promulgated by the Division :

(1) Detailed site plan including latitude and longitude of corners (metes and bounds)
(2) Geophysical site characteristics
(3) Benthic habitat conditions
(4) Proposed species, quantities, and densities
(5) Proposed physical structures
(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 Programatic General Permit

5. For license applications within the designated Aquaculture Development Area (ADA) designated by the Board the applicant 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 Warden may recommend a different size grant than that for which an applicant has applied depending on the Warden's assessment of the applicant's experience, resources, available time to farm and his/her best estimate of the overall demand for sites. License sites will require approval from the Board of Selectmen.

6. Following receipt of an acceptable and complete license application the 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 public places in Truro.

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

8. The Board of Selectmen shall hold a public hearing and either tentatively approve or deny the license application.

A. If the license site has been inactive for a period of more than two years the Shellfish Warden shall make an inspection of the license area together with the 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 Selectmen shall issue a license permit and license number in accordance with established regulations. Final location of the license is subject to decision by the Board.

9. First-time license applications may be approved for a two-year period. The license holder shall provide information concerning license activities. An effort toward production is required. Subsequent license renewals may be made for five –year periods. Renewal applications for initial two-year licenses may be requested during the second year of operation. Renewal applications for established licenses may be made at any time following the first three years prior to the end of the five-year period. Renewals shall be subject to approval by the Board with recommendations by the Shellfish Warden.

10. Annual reporting shall be completed on forms provided by the Shellfish Warden to each license holder on or before December 31 of each year for the previous year's effort. Within a reasonable amount of time, the Shellfish Warden shall review the license report submitted by the license holders and submit a copy of said report to the Board. The license holder shall produce documents on request of the Shellfish Warden showing shellfish purchase and sales slips.

11. Each license shall be reviewed annually by the Board and the Shellfish Warden 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 license may be deemed forfeited by the Board of Selectmen. 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

12. Licenses shall not be transferred or sublet; the license is to be worked by the license holder and immediate family; exceptions may be permitted for reasons of hardship. Employees of the license holder may be permitted to conduct aquaculture operations with the permission of the Shellfish Constable.

13. It is the responsibility of the license holder to comply with all relevant sections of the General Laws, Division regulations and the Department of Public Health regulations regarding the handling, transport and sale of shellfish grown on the license site including permits for possession of seed, sale and processing as described in 105 CMR 533 and 322 CMR 15.

14. It shall be unlawful for the license holder to take seed shellfish from any waterway in Town.

15. It shall be unlawful for any license holder to transfer to or from the license any contaminated shellfish. Any shellfish transferred to a license must come from hatcheries certified by the Division as disease –free.

16. The Town Shellfish Warden shall be notified prior to any transfer of shellfish, stating the location and name of the company from which the shellfish are purchased, the date of the transfer and proof of certification.

17. The Town of Truro reserves the right to obtain samples of any shellfish from the license area for the purpose of certified testing for disease.

18. The Shellfish Warden shall have authority to inspect the license area including the contents of all boxes or other containers at any time.

19. The license holder shall assume liability for all boxes, racks, etc used in shellfish farming. If any such boxes, racks, etc. are moved by a storm or other event to a location off the license, 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 Warden may cause such boxes, racks, etc. to be removed, and may bill the license holder. For purposes of identification, each box, rack, etc. 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 boxes, racks, pens boundary markers, etc 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 Warden at the license holder's expense.

20. license holders shall be responsible for affixing permanent markers to the four corners of their license after the license is issued. Each marker shall display the number of the license site, as prescribed by the Board in compliance with the statutory requirements.

21. Inasmuch as this ADA lies within a Critical Habitat area for marine mammals all floating gear which is affixed to the bottom shall be equivalent to the provisions and requirements of the Large Whale Take Reduction Team. This shall include marker buoys and their attachment lines as well as floating gear and messenger buoys.

22. A sleeved enclosure shall be installed on any permanent mooring line to prevent entanglement. Said sleeved enclosure shall be adequate to preserve a linear profile at all depths so as to eliminate the potential for entanglement.

23. For fixed gear on bottom an acoustic relicense mechanism may be affixed to the equipment which will allow temporary deployment of a float for purposes of retrieval of the gear. Said float shall be returned to submerged location at the end of each day.

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

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

26. No persons may moor a vessel within twenty five (25) feet, at rest, of a license.

FEES

27. An annual license fee of $25.00 per acre shall be paid by the license holder, payable on or before April 1 of each year. If the fee is not paid within six months after it becomes due, the license shall be forfeited.

28. The license holder shall post a $200 bond per acre of licensed area or part thereof to ensure compliance with Section 20 regulations. Said bond shall be returned to the applicant upon termination of the license or used for the disposition of abandoned material.

29. A $25 application fee for the public hearing shall be payable at the time of submission of the application to the Board.

30. 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 April 1 of each year thereafter. If the fee is not paid within six months after it becomes due, the license shall be deemed forfeited.

31. Other fees may apply for the issuance of State or Federal permits.

Submitted for consideration by Truro Shellfish Advisory Committee
21 February 2012

These regulations went into effect March 20, 2012 .

Curtis Hartman, Chairman

Gary Palmer, Vice-Chairman

Janet W. Worthington, Clerk

William F. Golden

Breon N. Dunigan
Board of Selectmen
Town of Truro