

4/18/23 DRAFT AMENDMENTS

§7.8.2 Domicile Requirement and Exception,
§7.8.4 Limit on Individuals Licensed to Use a Grant,
7.8.6 Limit on Size of Grant

DRAFT §7.8.2 Domicile Requirement and Exception

§7.8.2 (a) At such time as a licensee ceases to be a domiciled resident of the Town **as defined in §1 of Wellfleet's Shellfishing Policy and Regulations**, that individual shall be removed from the license, except in the event of loss of housing for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of residency, as defined in Section 2 of these Regulations, must be resumed, and verified by the Shellfish Constable within eighteen (18) months from the time of the license holder's removal to another town, or the licensee will be removed from the license.

Within 30 days of the nine-month anniversary of losing his/her/**their** domicile status, the ~~lease~~ **license** holder shall demonstrate sufficient evidence of effort to secure housing in Wellfleet to the satisfaction of the Shellfish Constable. If the **licensee** ~~lease holder~~ fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

No aquaculture license or commercial permit from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term. A licensee making use of an exemption shall not be eligible to be granted a new license or an extension of a currently licensed area for the duration of the allowed term but may be granted a renewal of their existing license, as per Section 7.8.2.

The status of all other licensees named to the licensed area will not change. If a licensee ceases to be a domiciled resident and is the sole **natural person named to that grant licensee**, then the license shall be revoked.

§7.8.2 (b) All and any constituents of corporate entities holding an aquaculture license or harvesting shellfish from a licensed area in Wellfleet, including but not limited to Corporations, Limited Liability Companies (LLCs), Doing Business As companies (DBAs), must be domiciled in Wellfleet and otherwise qualify, as required in the Wellfleet Shellfish Policy and Regulations. If any member of such an entity loses his/her/their domiciled status, they can either leave the entity or, if their change of status “is clearly beyond their control” have recourse to reinstate themselves as allowed under §7.28.2(a)

“...and otherwise qualify...” : Aside from being domiciled, should all constituents of a business be required to meet the same standard as a commercial permit or license holder?

DRAFT §7.8.4 Limit on Individuals Licensed to Use a Grant

Licenses issued under [MGL Chapter 130; Section 57](#) by the Selectboard of the Town of Wellfleet may be issued to up to four (4) **natural persons individuals**, 18 years of age or older, meeting the requirements set forth in Section 7. The Selectboard will not recognize more than four (4) **natural persons, including each member of a corporate entity**, as licensees on any one licensed area. Each person or **member of a corporate entity** who is licensed to use an area for aquaculture must acknowledge and approve the addition of any **natural person, including constituents of corporate entities**, who subsequently applies to be included on that licensed area.

Counting every actual human licensed to use a grant and/or otherwise empowered to make management decisions may be controversial but

prevents a loophole that could allow an entity with more, *way more*, than 4 members to have a say as to how a Wellfleet aquaculture enterprise is run.

DRAFT 7.8.6 Limit on Size of Grant

No licensee shall hold a license for or have use of, more than seven (7) acres in total. Each **natural person, including each constituent of a corporate entity who has use of a licensed area** shall be charged with the total acreage covered by that license. (See Section 7.3 Annual License Fee.) **Natural persons, including constituents of corporate entities** holding more than seven (7) acres prior to the adoption of the establishment of this limit will not be required to accept a license for a lesser acreage but will not be eligible for a license for any additional acreage. (See § 7.8.7 Grants Established Before August 1, 1993.)

Hmmm. What happens when, say, all the licensees on a grandfathered grant of over 7 acres established before August 1, 1993 die or otherwise get off it? Should the size be grandfathered?

Entities, with one or more members or shareholders, organized to function as an “individual” for the purpose of holding an aquaculture license including Corporations, Limited Liability Companies (LLCs), Doing Business As (DBAs), Trusts, or other such entities, are limited to seven (7) acres.