

## Section 2. Shellfishing Policy for the Town of Wellfleet

### Purpose of Regulations

The purpose of these regulations is to foster, protect and preserve Wellfleet's shellfish resources and habitats, to maintain and improve conditions permitting sustainable, productive shellfishing and aquaculture, to ensure equitable use of the resource for all persons legally engaged in these activities, and to provide appropriate protection for the reasonable and legitimate interests of all others affected by shellfishing. To that end, these regulations supplement and are consistent with the requirements of the State of Massachusetts including Massachusetts General Law Chapter 130, Code of Massachusetts Regulations 322, and the current Best Management Practices for the Shellfish Culture Industry in Southeastern Massachusetts, developed by SEMAC

(Southeastern Massachusetts Aquaculture Center).

To implement this policy, the ~~Board of Selectmen~~: Selectboard may restrict the taking of shellfish by commercial or noncommercial permit holders in any area or in any manner for the purpose of managing the fishery.

The ~~Board of Selectmen~~: Selectboard will license areas of intertidal land in such a manner as will allow as many licensed areas as are economically and environmentally practical for any such parcel of intertidal land approved for licensing.

Because much of the area that is used for shellfishing and shellfish aquaculture is a precious natural resource that is owned by the Town, and because best use of such intertidal land is made by those who are geographically present and personally accountable to the community, the granting of commercial permits and licenses for aquaculture is restricted to domiciled residents of Wellfleet.

## Section 6. Commercial Shellfishing

### 6.1. Commercial Permits

#### 6.1.1. Eligibility For Commercial Permits

A commercial permit may be issued to any person fourteen (14) years of age or older, who is a domiciled resident of Wellfleet. Individuals aged fourteen (14) through sixteen (16) may be issued junior commercial permits. Only in the calendar year in which a person reaches fourteen ( 14) years of age may that person apply for a junior commercial permit at any time after the occurrence of that person's birthday. Residents over 65 may be issued senior permits. ~~Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet.~~

Commercial permits will not be issued to unnaturalized foreign-born persons who have not resided in Barnstable County at least five (5) years prior to making application (MGL Chapter 130; Section 55).

#### 6.1.2 Domicile Requirement and Exception

Any commercial permit will be revoked if the holder ceases to be a domiciled resident of Wellfleet, with the exception of those who have previously held a commercial permit for at least two (2) years, and who have temporarily lost housing in Wellfleet for reasons clearly beyond their control (such as a fire or a lease not being renewed) as verified by the Shellfish Constable. Status of domiciled residency, as defined

in Section 2 of these regulations, and verified by the Shellfish Constable, must be resumed within eighteen (18) months from the time of the permit holder's removal to another town or the permit will then be revoked. **The licensee must provide sufficient evidence of effort to secure housing within Wellfleet to the Shellfish Constable within thirty days of the licensee's six, and twelve month anniversaries of the loss of their housing within Wellfleet.** No commercial permit or aquaculture license from another municipality for the harvest of shellfish may be held by the individual for the duration of the allowed term. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days.

- A. **Sufficient evidence of effort to secure housing shall include but not be limited to, securing the services of a real estate agent, contacting at least three prospective landlords or other such actions which demonstrate an intent to resume residency within Wellfleet.**
- B. **If the Shellfish Constable determines that sufficient effort has not been shown the Constable shall contact the Principal Clerk and the Selectboard for advertisement and request that the public hearing be placed on an upcoming Selectboard meeting agenda. The Selectboard Chair shall schedule a public hearing not more than thirty days from date of receipt.**
- C. **A public hearing will thence be held and the Selectboard will determine if the licensee has show sufficient evidence of effort to resume residency within Wellfleet**
- D. **If the Selectboard agrees with the Shellfish Constable's determination the license shall be revoked.**

FYI: The current 6.1.2 will become 6.1.3 and each subsection thereafter will also be renumbered in sequential order finishing with 6.1.4 becoming 6.1.5.)

## Section 7. Shellfish Aquaculture

### 7.8. Issuance of Licenses for Aquaculture

7.8.1. Eligibility Requirements: Licenses shall only be issued to domiciled residents (See Sec. I Definitions) of the Town, 18 years of age or older, who have the knowledge and experience to fulfill the responsibilities specified in the license, provided that the applicant has held and been documented by the Shellfish Department using a Wellfleet commercial shellfishing permit during a period of at least three (3) of the four ( 4) calendar years preceding the date of application for a license. Applicant shall submit copies of state-filed catch reports. OR, provided the applicant demonstrates experience in shellfish propagation and aquaculture, continuously, over at least three (3) years preceding the date of application, documented by the Shellfish Department. This shall be supported by a letter from a license holder who employed the applicant describing the type of work performed and any other information which might be relevant. The applicant shall present a detailed five-year business plan for how s/he intends to use the grant, including shellfish species, amounts and sizes, and gear to be used, access routes and any other information relevant to proposed operations. In addition, any applicant shall not show a pattern of violations of Wellfleet's Shellfishing Policy and Regulations within the last three (3) years.

~~At such time as a licensee ceases to be a domiciled resident of the Town that individual shall be removed from the license. The status of all other licensees will not change. If that licensee is the sole licensee ten the license shall be revoked.~~

### 7.8.2 Domicile Requirement and Exception

At such time as a licensee ceases to be a domiciled resident of the Town, 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. **The licensee must provide sufficient evidence of effort to secure housing within Wellfleet to the Shellfish Constable within thirty days of the licensee's six, and twelve month anniversaries of the loss of their housing within Wellfleet.** No aquaculture license or commercial permit from another municipality may be held by the individual for the duration of this term of allowance. If the permit holder fails to qualify for such an exception, they may appeal the Shellfish Constable's decision to the Selectboard within 30 days. **A licensee making use of an exemption shall not be eligible to be added to a license or extensions of licensed areas.**

- A. **Sufficient evidence of effort to secure housing shall include but not be limited to, securing the services of a real estate agent, contacting at least three prospective landlords or other such actions which demonstrate an intent to resume residency within Wellfleet.**
- B. **If the Shellfish Constable determines that sufficient effort has not been shown the Constable shall contact the Principal Clerk and the Selectboard Chair for advertisement and request that the public hearing be placed on an upcoming Selectboard meeting agenda. The Selectboard chair shall schedule a public hearing not more than thirty days from date of receipt.**
- C. **A public hearing will thence be held and the Selectboard will determine if the licensee has show sufficient evidence of effort to resume residency within Wellfleet**
- D. **If the Selectboard agrees with the Shellfish Constable's determination the license shall be revoked.**

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

FYI: The current 7.8.2 will become 7.8.3 and each subsection thereafter will also be renumbered in sequential order finishing with 7.8.7 becoming 7.8.8 and all its subsections reflecting 7.8.)