

# **Mattapoissett Aquaculture Regulations**

The Town of Mattapoissett advocates the orderly development of aquaculture that is complementary to the continuing development of the Town's shellfishery as it pertains to aquaculture licenses. In consideration of any aquaculture license the Town is obligated to protect and preserve the existing fisheries and to minimize the impact on other uses of the marine environment. The right of public navigation through a licensed area shall not be infringed upon except in areas containing approved structures that are properly marked according to these regulations. The size and scope of the license shall co-exist with and not diminish the common property, commercial and recreational shellfisheries, or other existing water-related activities.<sup>1</sup>

## **Application Requirements and Procedures**

### **A.**

Prior to the issuance of the aquaculture license, the applicant shall be required to have the project area delineated by latitude and longitude at the four corners. A map of the delineated area must accompany the application for the license and be of an appropriate scale to be recorded at the Plymouth County Registry of Deeds.

### **B.**

Aquaculture license applications shall be considered on a first come, first served basis.

### **C.**

Any aquaculture application that is incomplete as a result of inaction on the part of the applicant for a period of six (6) months shall be denied without prejudice. The applicant may begin the application process again, if he chooses to do so. If this occurs a second time, the denial will be with prejudice and the applicant denied another opportunity for three (3) years.

### **D.**

Any application found to contain false information shall be grounds for denial or forfeiture of a license. The application fee will be non-refundable in this case. Once a submission of a license application is made, the Board of Selectmen (BOS) will conduct a public hearing within forty-five (45) days on the application. Within ten (10) days before that hearing, the applicant will have completed a notification of all abutters within 300 feet of the outside boundaries, to include the date, time, and place of the hearing. The Board of Selectmen's (BOS) approval of a shellfish aquaculture license shall become effective immediately upon their vote to approve.

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<sup>1</sup> See additional information in the 2017 Wharf, Mooring, and Anchorage Rules and Regulations as well as the September 2011 Waterfront Management Plan. Both are available online at [www.mattapoissett.net](http://www.mattapoissett.net).

# **Mattapoisett Aquaculture Regulations**

## **E.**

Approval of any aquaculture license shall be subject to all federal, state, and local laws, as well as rules and regulations in force and as amended from time to time. The licensee shall comply with all such rules and regulations pertaining to the operation of an aquaculture license in the Commonwealth of Massachusetts. Failure to comply with any of the aforementioned laws, rules, and regulations shall be cause to trigger a hearing as to penalties or revocation of the license.

## **F.**

During the term of the license, a license may be revoked for good cause after the license holder has been afforded an opportunity to remedy the violation. Should the violation not be remedied within the time specified by the Town, then a hearing will be set before the Licensing Authority at which time they shall hear from both the license holder and the town official investigating the matter. The Licensing Authority, within 7 days of completion and closing of the hearing, shall render a decision which can include a suspension of the license, an order to correct the violation within a prescribed time, and revocation of the License if grounds warrant such. All notices of hearings shall be at least 7 days in advance of the hearing. The license holder may be represented by counsel in the hearing. The Licensing Authority's decision is final with no further grounds of appeal.

## **G.**

Certain terms, specific to the licensee, the site, or the particular specie being raised may be included in the actual license issued by the Town of Mattapoisett, which may not necessarily be included herein, but must be adhered to by the licensee. Acceptance of the license by the licensee indicates acceptance of the terms of the agreement.

### **License renewals**

Aquaculture licenses shall have an initial term of five years and may be renewed for a period not to exceed ten years. Aquaculture licenses will be renewed to the original holder provided there are no outstanding violations of the aquaculture regulations in effect at the beginning of the current term. Should the licensee have three or more hearings during the term of the license, that have resulted in determinations of violations, the license may be revoked, not renewed, or renewed with restrictions. Upon renewal, any new or revised aquaculture regulations shall be observed by the license holder.

### **Moratorium on issuances of new licenses**

The Board of Selectmen (BOS), after consulting with the Town Administrator and the Harbormaster/Shellfish Officer, may issue a moratorium on the issuance of new licenses

# **Mattapoisett Aquaculture Regulations**

at any time when this action is deemed appropriate and in the best interests of the Town's shellfisheries.

## **Filing and posting of list of applicants**

A list of applicants for licenses in order of date of application shall be kept on file by the Town Administrator, and an up-to-date copy shall be permanently posted on an official bulletin board in the Town Hall.

## **Submission of application for review by other agencies**

Upon receipt of a completed application the Town Administrator shall deliver, within seven (7) days, a copy of the completed application to the Harbormaster/Shellfish Officer, the Marine Advisory Board (MAB), the Conservation Commission, and the Town Attorney for their review and written comments. Said written comments are to be received by the Town Administrator no later than thirty (30) days after the application is received by the reviewing departments and committees.

## **Use of private land**

It shall be the responsibility of the applicant to determine if the proposed site is on private property. If so, written permission from the landowner is required. The aquaculture license issued by the Town does not give the applicant rights to use private land.

## **Fees; production report**

An appropriate fee per acre per year shall be paid by the license holder to the Town of Mattapoisett and shall be payable no later than December 31 for the following year. The annual production report for the previous year shall be submitted no later than February 28<sup>th</sup>. This report shall include an inventory of all cultured shellfish currently on the site, shellfish harvested, and seed purchased for the year. The Board of Selectmen (BOS) shall review the production report annually as prescribed by MGL C. 130, § 65. The license holder shall produce documents upon request by the Selectmen showing shellfish seed purchased and sales slips. A performance bond of no less than \$1000 per acre shall be required to be in force and renewed each year, with a copy submitted to the Harbormaster/Shellfish Officer.

## **Signs and markers.**

### **A.**

Off-shore corner markers must be a minimum diameter of 60", be colored yellow, and with a flashing white light. In-shore corner markers must be a minimum of 36" and be colored yellow. The Harbormaster/Shellfish Officer will determine if the site is considered in-shore or off-shore.

# Mattapoissett Aquaculture Regulations

All aquaculture corner markers must have the following text printed on each one, on at least two (2) sides in three-inch (3") letters as follows:

- **PRIVATE SHELLFISH AREA**
- **THE NUMBER OF THE AQUACULTURE LICENSE**
- **NO SHELLFISHING**

## B.

A hazard buoy may be placed within the confines of the area if there are structures placed on the bottom in that area.

## C.

Inshore sites may be required to have boundary markers surveyed and placed on shore.

## D.

Discrete poly balls of a size equal to A2 balls shall be placed along the entire length of the boundary lines at a distance of not more than 75 yards between them in any case in which the boundary line is equal to or longer than one hundred fifty (150) yards and any of the aquaculture equipment is at or within fifteen (15') feet of the surface at any tide.

## Site area.

### A.

All sites, whether in-shore or off-shore, out to three (3) miles offshore, may be initially limited to certain acreage as determined by the Board of Selectmen (BOS) and the Harbormaster/Shellfish Officer for the initial phase of the farm to ensure that the applicant can productively work the area.

### B.

Adjacent licensed sites shall maintain a fifty-foot (50') buffer zone between each licensed area to allow for access.

## Removal of Debris

The license holder is responsible for any debris that washes away from the site and shall remove such material immediately. Failure to remove debris within three (3) days after being notified by the Harbormaster/Shellfish Officer or any other agency within the Town or an abutting town shall be a violation and cause for a Select Board's Hearing.

## Storage of equipment

No cages or other equipment that is not in use may be stored at the site location.

# **Mattapoissett Aquaculture Regulations**

## **Transfer of license; employees; inspections**

### **A.**

Aquaculture licenses shall not be transferred without written approval of the Board of Selectmen (BOS) and the Division of Marine Fisheries (DMF). Persons seeking licenses through transfers must meet all current criteria for aquaculture license applicants.

### **B.**

The license holder must give written notification to the Harbormaster/Shellfish Officer of any employees authorized to work on the site.

### **C.**

The Harbormaster/Shellfish Officer shall have the authority to inspect the site, including the contents of any and all rafts, floats, and other containers at any time. The Town of Mattapoissett reserves the right to obtain samples of any shellfish from the site for the purpose of certified testing for disease.

## **Removal from Town waters prohibited**

It shall be unlawful for any aquaculture license holder to take seed shellfish from Town waters outside of the licensed site without written consent from the Board of Selectmen (BOS) and the Director of the Division of Marine Fisheries (DMF) or their designees.

## **Seed shellfish; concentration of shellfish**

### **A.**

Seed shellfish purchased for use on the site shall be obtained from sources approved by the Massachusetts Division of Marine Fisheries (DMF).

### **B.**

A minimum of \$3000.00 worth of shellfish per acre shall be maintained on the site at all times after the first three (3) years. Allowances may be made for catastrophic losses. During the first three (3) years, there must be a sincere effort made to attain this minimum requirement.

## **Termination of site**

When a licensed site is discontinued and/or terminated for any reason, the permit holder shall be required to remove all rafts, racks, floats, and other equipment from the area within sixty (60) days from the site expiration date. Any and all equipment not removed within sixty (60) days may be recovered by the Town at the expense of the license holder and the performance bond is forfeit.