

Town of Kingston Special Shellfish Regulations; Shellfish/Aquaculture Grant Program

Effective June 9, 2009, shellfish farming shall be permitted under the following terms and conditions of the Aquacultural Grant Program on ten (10) acres of a sixty-three acre shellfish development area in the inner-tidal zone.

1. Shellfish Grants not exceeding (3) three acres in size may be issued to residents of the Town of Kingston who can show to the satisfaction of the licensing authority that they indeed live in and are residents of the Town of Kingston. That any person making application for a Shellfish Aquacultural License must be a resident of the Town of Kingston, must reside while actually domicile within the Town of Kingston for not less than twelve (12) months preceding the application or license and further must continue to be a resident of the Town of Kingston, while actually domicile therein while in possession of said license or application.
2. Applicants desiring a Grant shall be required to complete and submit all information required by the Town's approved application form. Grants requested on any other form shall be considered unacceptable.
3. Approval of any and all Shellfish Grants shall be subject to all local, state and federal law and/or rules and regulations pertaining thereto.
4. The Board of Selectmen will consider applications for grants on a first come first serve basis, within the limitations of acceptable land and water space. A waiting list shall be maintained by the Office. The Board of Selectmen may order a moratorium on the issuing of grants any time it is deemed necessary and appropriate for the best interests of the Town.
5. Grants issued in Kingston are intended to be on a trial basis. To start, grants may be issued for a five (5) year period with a compulsory two year review by the Selectmen. Grant holders may request, only after the compulsory review, a renewal of said grant up to the 3rd year. Renewal shall be subject to the approval of the Board of Selectmen. The Selectmen and the Shellfish Constable shall review each grant annually to insure a reasonable amount of shellfish has been planted and produced on the grant during the preceding year. A reasonable amount shall be that set forth by statutory requirements, section 65, Chapter 130 of the Massachusetts General Laws. If the grant holder has not complied with section 65, Ch. 130, MGL, the grant license may be forfeited.
6. Application forms shall be sent to the Board of Selectmen by Registered Mail - Return Receipt Requested or hand-delivered in person to the same. Such shall be date/time stamped.
7. Grants approved shall be subject to certification by the State Division of Marine Fisheries in compliance with Chapter 130 of Massachusetts General Laws.

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8. An annual license fee of \$25.00 per acre shall be paid by the Grant holder, payable, on or before August 31st of each year. If the fee is not paid within five days after it becomes due, the license shall be forfeited.
9. A grant holder may not have interest in more than one grant. For the purposes of this section, one Grant shall be the maximum acreage (singly or aggregate) allowed by law, that may be issued to an individual.
10. Moorings and ground tackle for rafts, floats or any other structure must be approved by the Harbormaster and the Corps of Engineers.
11. Shellfish may be rafted only in those areas so specified in the license. Shellfish rafting in areas outside the limit of any raft area shall be prohibited without written permission from the Harbormaster/Shellfish Constable.
12. It shall be unlawful for the Grant holder or agent to take seed shellfish from any waterways of the Town other than designated Grant area without written consent to do so from the Board of Selectmen and the Director of the Division of Marine Fisheries.
13. The Board of Selectmen shall review the Grant Report once each year as prescribed by MGL, Ch. 130, sec. 65. The Grant holder shall produce documents, if requested to do so by the Selectmen, showing shellfish purchases and sales slips.
14. The Harbormaster/Shellfish Constable and/or his/her assistants or deputies shall be the enforcement entity, and shall have the authority to enter and inspect any Grant area including the contents of any and all rafts, floats and other containers at anytime.
15. If at any time it becomes necessary to dredge and/or otherwise accomplish maintenance dredging on or within the vicinity of the Grant area to improve or maintain channels for navigation, the Grant holder will agree under terms of the permit not to obstruct said dredging plans and operations. The Grant holder will have 90 days notice prior to commencement of any dredging operation.
16. Before, during and after dredging operations are completed and if in the opinion of the Grant holder, the Harbormaster/Shellfish Constable and the state Marine Biologist, that bottom conditions are considered temporarily unsuitable for planting or maintaining shellfish, immediate and temporary permission for relocation of the Grant holder's stock shall be reviewed by the Board of Selectmen. In the event that shellfish need to be relocated under these conditions, they shall be relocated at the expense of the Grant holder. All foregoing regulations shall apply to any temporary placement of said shellfish.
17. When a Grant is discontinued or terminated for any reason, the permit holder is required within 60 days of Grant expiration date to remove all rafts, racks, floats, boxes, pens, boundary markers

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and equipment and any and all equipment not removed within 60 days may be recovered by the Town at the expense of the Grant holder.

18. The Grant holder is required to hold state permits to handle seed and propagate shellfish in compliance with MGL, Ch. 130. The Grant holder shall be required to comply with all rules and regulations governing shellfish and Grants as set forth by the Town of Kingston and MGL, Ch. 130, sec. 57 through 68A and MGL, Ch. 131, sec. 40, or other applicable law. Failure to comply shall be deemed cause to revoke the Grant permit.
19. Grant applications are subject to review and or approval by the following governing bodies: Board of Selectmen, Harbormaster/Shellfish Constable, Waterfront Committee, Conservation Commission, State Division of Marine Fisheries and the U.S. Army Corps of Engineers, or other agencies as required.
20. After receiving an acceptable and complete Grant application, the Selectmen shall establish a date for a public hearing. Ten (10) days or more prior to the public hearing, the Selectmen will notify the applicant of the time, date and place of hearing. At least ten (10) days prior to the hearing, the Selectmen will post in three separate public places a hearing notice and shall have it published in a newspaper with a local publication. All advertising costs shall be paid by the applicant.
21. Grants are permissible beyond 750' from mean high water. This requirement is not applicable in areas which are separated from the shore line or mean high water line by guzzles or channels containing water at mean low water. Applications cannot be approved if the area conflicts with existing laws. Prior to the issuance of the Grant Permit the applicant will be required to have the grant area surveyed by a registered engineer or a registered surveyor. A recorded plan defining the boundaries of the grant, together with a full specific description of the area shall be submitted. Upon completion of the plan, the applicant shall have the boundaries marked as prescribed by the Kingston Grant Proceedings and/or to the satisfaction of the Harbormaster/Shellfish Constable.
22. The Board of Selectmen reserves the right to review the entire Grant system and may alter the rules and regulations at any time.
23. If the Shellfish Constable determines that there are concentrations of a natural set of mussel, scallop and/or razor in the Grant area, the Grant holder will be responsible by authorized means under the supervision of the Shellfish Constable or his assistant to relocate said mussel, scallop, and/or razor within a reasonable time as determined by the Shellfish Constable, any person holding a valid recreational permit or a commercial license for that particular species of shellfish (both as regulated/authorized by law) may enter upon this area only at times, and by authorized means as agreed upon by the Grant Holder and Shellfish Constable. Said access shall be under the supervision of the Shellfish Constable or his assistants. Failure to agree upon such a time or

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method of harvest will necessitate the Board of Selectmen upon recommendations of the Waterfront Committee, Shellfish Constable and the Massachusetts Division of Marine Fisheries, to designate a time and method of harvest if appropriate. Grantee's licensed to cultivate and propagate mussels, scallops, and/or razor shall be excluded from this rule.

24. The digging, taking and harvesting of shellfish and maintenance of shellfish beds is permitted seven days a week. .
25. Shellfish being introduced into Kingston waters for cultivation, other than those obtained or purchased from an aquaculture farm or that or a similar definition shall be cleared through the Shellfish Constable. These shellfish are subject to testing prior to introduction.
26. Shellfish may be harvested in two ways – 1.) By hand; or 2.) By “Oyster” rake and basket behind a boat. No hydraulic or water pressure devices are permitted.

FEES:

1. A twenty five dollar (\$25.00) advertising and legal notice fee for the public hearing shall be payable at the time of submitting the Grant application.
2. An annual permit fee of twenty five dollars (\$25.00) per acre will be payable at the time of the Grant approval and then on August 31st of each year.
3. A recording fee of one dollar (\$1.00) shall be payable at the time of Grant approval.
4. A processing charge of four dollars (\$4.00) shall be paid at the time of Grant approval.