

Town of Fairhaven Waterways Regulations

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Attachments

Attachment A Fee Schedule

1 Town of Fairhaven Waterways Regulations

INSERT DATE OF REGULATIONS

Insert language to revoke existing bylaws, rules and regulations. BOS have authority to approve/amend regulations as recommended by Harbormaster – Town Council to Advise

Preamble

In order to better promote fair and adequate public access and to provide the efficient and effective management of the harbors and waterways, the Town of Fairhaven hereby adopts the following regulations.

Authority

Pursuant to the general authority under Massachusetts General Laws (MGLs) Chapter 102, Section 21, et seq., Chapter 91, Section 10A, and Chapter 43B, Section 13, and all other applicable legal authority, the Town of Fairhaven by and through the Harbormaster is authorized to issue temporary, annual permits to the public for the mooring of vessel and related structures under such terms, conditions and restrictions that may be deemed necessary. Pursuant to the foregoing authority, the Harbormaster hereby establishes the following regulations to become effective on **INSERT DATE**, for the temporary placement and use of moorings within the tidal waterways of the Town of Fairhaven.

Purpose

The purpose of these Regulations is to standardize mooring practices, anchorages, shellfishing, aquaculture, and float installations, maintain adequate space for moorings, and to fully utilize the limited area in Fairhaven waters while maintaining safety practices. Copies of these regulations are available from the Harbormaster office at the Fairhaven Town Hall.

Terms of Reference

“BUOY” shall mean mooring float that specifically serves to suspend the mooring chain while also taking the strain off the pennant that eventually leads to a vessel.

“CERTIFIED INSPECTOR” shall mean any person approved as an inspector of tackle by the Harbormaster.

“CHAIN” shall mean marine grade galvanized or stainless steel link chain used to connect to the mooring.

“COMMERCIAL MOORING” shall mean any mooring placed in Fairhaven waters for which a rental fee may be charged or that is used by a commercial vessel.

“COMMERCIAL FISHING VESSEL” shall mean a Fairhaven based vessel that is used primarily as a commercial fishing vessel and whose primary operator’s legal residence is in Fairhaven, Massachusetts.

“DOCKING LICENSE” is a license issued under the provisions herein.

“DOCKING SLIPS” shall mean space made available to boat owners to secure their boat.

“FACILITY” shall mean any business in Fairhaven providing marine services, slips, mooring or any summer seasonal storage and operates by permit issued by the Town of Fairhaven, MA.

"FAIRHAVEN BASED VESSEL" shall mean a vessel based primarily in Fairhaven, whose owner's legal residence is in Fairhaven, Massachusetts.

“FLOAT” any structure placed in Fairhaven waters, suitable to walk on, dive from, tie up to, whether seasonal or year round, occupying water surface.

"HARBORMASTER" shall mean the duly appointed official of the Town who has responsibility and authority for the performance of duties as set forth in MGLs Chapters 88, 91, 91A, and 102 and as set forth in the By-laws, Regulations, and Orders of the Town of Fairhaven. The term Harbormaster shall also mean duly appointed deputy and assistant Harbormasters.

“HEADWAY SPEED” shall mean the slowest speed at which a vessel may be operated at and still maintain steering.

“HELIX ANCHOR” shall mean an embedded anchor which is screwed into the bottom to a specified level of torque.

“HOT WORK” is any work process that involves heat, spark, or flame that is capable of starting fires or explosions. Examples include, but are not limited to, welding, cutting, grinding, soldering, heat treating, hot riveting, torch- applied roofing, abrasive blasting, and powder driven fasteners.

“IMMEDIATE FAMILY” shall mean a parent, sibling, spouse, or child over the age of 18.

“FAIRHAVEN WATERS” shall mean all waters within Town boundaries.

“LEGAL RESIDENCE” shall be established, for the purposes of these regulations, by the address shown on the following 5 items:

- ♦ Driver’s license;
- ♦ Paid utility bill;
- ♦ Paid rental/mortgage bills;
- ♦ State/Federal fishing catch reports (only required for Small Boat Basin)
- ♦ Town of Fairhaven real-estate tax bill

“MARINA” a berthing area with docking facilities under common ownership or control with berths for five or more vessels including commercial marinas, boat basins, and yacht clubs. A marina may be an independent facility or be associated with a boat yard.

“MARINE RESOURCES ADVISORY COMMITTEE” is an advisory board to the Board of Selectmen involving matters relating to tidal waterways and associated public facilities such as marine ramps, docks, wharves, piers and moorings.

“MOORING” any device installed in the waters, with tackle, chain, floats, shackles, anchor, buoy, pennant, and associated swivels, shackles, thimbles, and eye splices, etc., of the Town of Fairhaven to hold a permitted vessel or structure, in a location. An existing mooring is a mooring that has been in place during the previous season and was used during the previous season. Moorings not used last year are considered new mooring sites and will require the approval of the Harbormaster before a sticker is issued. The Harbormaster’s Office shall denote “new” or “existing” on the application.

“MOORING AREAS” shall mean those portions of Fairhaven waters which shall be designated as such by the Harbormaster.

“MOORING TACKLE” shall mean all components of a mooring system from the vessel end of a pennant to the mooring anchor at the sea floor.

“MOORING YEAR” will date annually from April 1 through March 31 and is the period for which a mooring space or float is assigned.

“MUNICIPAL MOORING” shall mean any mooring placed in Fairhaven waters for municipal use.

“PENNANT” shall mean the line (rope) which attaches your boat, typically with an eye splice at the bitter end, to the chain secured to the mooring tackle.

“PERMIT HOLDER” shall mean the holder of a mooring space, float and/or out-haul assigned to him or her by the Harbormaster for the habitual mooring of his/her vessel.

“PRIMARY OPERATOR” shall mean a person who holds and actively uses a valid state or federally issued commercial fishing license.

“RECREATIONAL MOORING” shall mean any mooring placed in Fairhaven waters for the permit holder’s personal use as the habitual mooring for his/her vessel.

“SHACKLES” shall mean marine grade iron, galvanized or stainless steel mechanical fastener used to join chain, swivels or pennant.

“SHELLFISH WARDEN” shall mean the duly appointed official of the Town who has responsibility and authority for the performance of duties as set forth *MGL Chapter 130 Section 98*. They are a person, or persons, qualified by training and experience in the field of shellfishery management. They shall enforce all statutes, ordinances, by-laws, rules and regulations relative to shellfish.

“SUMMER SEASONAL IN-AND-OUT SERVICES” shall mean any business that provides a service that allows a boat owner to remove or put in his/her boat each time of use within the coastal waters of Fairhaven, MA.

“SWIVELS” shall mean marine grade iron, galvanized or stainless steel mechanical fastener used to allow rotation between chain and other mooring tackle which relieves twisting and binding of tackle components.

“TOWN” shall mean the Town of Fairhaven, Bristol County, Massachusetts, acting through its Harbormaster or its Board of Selectman.

“UNION WHARF” shall mean Union Wharf, owned by the Town of Fairhaven, MA.

“VESSEL” includes ships of all kinds, barges, house vessels, sailing vessels, watercraft and power vessels of any type or kind by whatsoever means propelled, every structure designed, adapted or capable of being navigated, towed or operated on water from place to place for the transportation of merchandise, people or for any other purpose.

Waterways Users Fee

Boat owners using the waters of Fairhaven, MA will be subject to a waterways user fee. The waterways user fee is a fee used to help offset the cost of operating services provided by the Town of Fairhaven, MA. Services include, but are not limited to, dredging, maintenance

projects, fire, emergency, police security, boater education, environmental protection, enforcement and harbor management services. Additional services may be provided as the need arises.

All boats using the waters of Fairhaven, MA for more than 14 days per year (calendar year) are subject to the waterways user fee in Fairhaven, MA. Exceptions to the waterways user fee are boats that are on trailers put in and taken out for each occasion of use, boats less than 16 feet in length, boats belonging to the Town of Fairhaven or used by the Town of Fairhaven, or any other boat used for law enforcement by government agencies. The fee schedule is based on a per-foot charge on boats' overall length as determined by the Harbormaster. This waterway user fee is a yearly fee and is due by June 30 of each calendar year, or immediately after the 14-day benchmark is met if after June 30 of the current calendar year. The Board of Selectmen, in consultation with the Harbormaster, may amend these fees from time to time.

Facilities providing services such as mooring space, docking, slips or summer in-and- out services shall, as a condition of their permit to operate as a business in Fairhaven, MA, notify all of their customers of this required fee to the Town of Fairhaven, MA, when signing a contract or agreements that allows them to keep their boat in the Town of Fairhaven qualifying them for the waterway users fee under the guidelines as described herein.

Payment is to be made in person or via U.S. Mail to the Town of Fairhaven, Office of the Tax Collector. For those paying in person, a waterways user fee sticker application will be made available by the Office of the Tax Collector. The Office of the Tax Collector will, upon payment, provide a sticker which is to be affixed to the port side stern area of the boat. If payment is made via mail, the boat owner must provide the following information:

- ◆ Name of owner.
- ◆ Address of owner.
- ◆ Telephone number.
- ◆ Registration numbers / documentation numbers
- ◆ Year manufactured.
- ◆ Length.
- ◆ Color.
- ◆ Place boat kept during the season.
 - ▶ In addition, the boat owner must provide a self-addressed stamped envelope to receive a sticker via the mail.
 - ▶ Checks will be considered receipt of payment for those made via mail. (Do not send cash as a payment.) The Town of Fairhaven's Office of the Tax Collector is located at 40 Center Street, Fairhaven, MA 02719.

Violators will be subject to a fine in the amount of 120% of the waterway user fee due the Town of Fairhaven, not to exceed \$300. Once paid, the waterway user fee will be considered paid and a waterways user fee sticker will be provided. Fines shall be recovered by indictment, or on complaint before the District Court, or by noncriminal disposition in accordance with § 21D of Chapter 40 of the MGLs. **TOWN COUNCIL TO CHECK TOWN'S NON-CRIMINAL DISPOSITION BYLAW**

Any person aggrieved by any decision of the Harbormaster hereunder may file an appeal with the Fairhaven Board of Selectmen by delivering such appeal, in writing, to the Town Hall within 15 days of the decision of the Harbormaster. Such ruling shall state specifically the nature of the decision and the reason the person is aggrieved.

3 Mooring Regulations

Use of Mooring

Per bylaws as adopted by the Town of Fairhaven, mooring permits are issued to specific people for specific vessels. Each mooring is permitted yearly as a temporary mooring, per Commonwealth of Massachusetts Law by the duly appointed Harbormaster of Fairhaven.

The Harbormaster may approve use of moorings not being used by vessel identified to a registered mooring for no more than five (5) days on no more than three (3) separate occasions per registered year. Notification must be made by email to tcx@fairhaven-ma.gov or via telephone notification not later than forty-eight (48) hours prior to use unless otherwise considered an emergency.

The quantity of moorings in Fairhaven shall be determined by the Harbormaster, with a minimum of 60% of the total population dedicated to recreational moorings.

Ownership of Mooring Site

Because the land beneath the tidal waters of the Town of Fairhaven is owned by the Commonwealth of Massachusetts and is held for the public trust as part of the public domain, all mooring permits are of a temporary nature and no person has a property right in any mooring location without an express grant by the Commonwealth or express act by the legislature. Burden for establishing such grant or act remains upon person claiming same.

Mooring Permit Categories

There shall be three categories of moorings subject to permitting: (i) recreational; (ii) commercial; and (iii) municipal.

Only one new recreational mooring permit will be granted to a new applicant for the personal, non-commercial use of the permittee per calendar year. No person may place a vessel other than the “vessel-of-record” on a recreational mooring without prior written authorization of the Harbormaster. A holder of an existing recreational mooring permit will not receive a new annual permit if they have not paid all applicable state and local taxes and waterways fees to the Town of Fairhaven.

A commercial mooring permit may only be granted to a duly organized, and existing business entity with a principal place of business located in the Town of Fairhaven for use as a rental mooring or a commercial vessel. No person or business entity may apply for a commercial mooring permit in furtherance of a passive business endeavor. A holder of a commercial mooring permit may not rent a commercial mooring to a vessel owner who has not paid all applicable state and local taxes and waterways fees to the Town of Fairhaven. A commercial mooring permit is not transferable by sale or assignment. A commercial permittee shall comply with all federal, state, and local laws.

The Town reserves the right to designate moorings for Town use, at the discretion of the Harbormaster.

Mooring Location

All mooring locations must be approved by the Harbormaster. For new installations, the permanent mooring system, including anchor and ground tackle shall be in accordance with the minimum mooring tackle specifications established herein. A mooring system set without prior authorization of the Harbormaster may be removed immediately by the Harbormaster at the owner's sole expense. Upon issuance of a mooring permit, the Harbormaster shall assign a mooring location to an The Harbormaster may require the removal and reinstallation at the permit holder's expense of any moorings that are found to be greater than 1 meter from the required location.

3.4.1 Mooring Installer Requirements

Mooring positions are to be set using a survey grade, sub-meter accuracy GPS and charting system.

Mooring location fixes are to be taken directly over the point of placement without the use of offsets.

For improved accuracy, fixes on moorings are to be taken with the mooring line pulled tight and perpendicular to the ground, with the GPS antenna directly over the point.

Application for Mooring Permit

Any person or business who desires an annual permit for the placement on a temporary basis of a recreational or commercial mooring to secure a vessel, float, raft, or related structure held by a permanent bottom-anchored mooring system must submit a written application to the Harbormaster, together with a non-refundable application fee which must be renewed annually. The application fee is for the processing of the application and is separate from any mooring permit fee required herein. No part of a mooring system, including anchor or ground tackle, may be set prior to the issuance of a permit by the Harbormaster for the placement or maintenance of said mooring at a location established and approved by the Harbormaster. Any mooring system set without prior authorization of the Harbormaster may be removed immediately by the Harbormaster and the expense associated therewith will be the responsibility of the applicant/owner and the permit application shall be forfeited.

All moorings in the Town of Fairhaven must be registered yearly via an application process available at the Harbormaster's office during regular business hours, 8:30 a.m. to 4:30 p.m., Monday through Friday. Applications for new or existing moorings may be obtained at the Harbormaster's Office. All applications shall be filled out completely by the owner. Reference to previous applications are not permitted. The name of the vessel and its location must be filled out to get sticker.

Applicants shall declare their mooring an existing or new mooring.

3.5.1 Existing Mooring Applications

When an existing mooring application is completed and turned in, the Harbormaster's Office will provide the applicant with a numbered mooring sticker. The sticker number will be put on the application. Then that application shall be forwarded to the Harbormaster via his/her mail box.

The Harbormaster's Office will instruct the applicant to affix the sticker to their mooring ball above the water line.

3.5.2 New Mooring Applications

New mooring applications, again, require the applicant to fill out the form with desired mooring location(s) and all other information requested. The Harbormaster's Office will denote "new" on the application and then inform the applicant that their application will be sent to the Harbormaster for approval. The Harbormaster will then make a determination.

Stickers will only be given to existing moorings and new moorings that have been approved.

3.5.3 Waiting List

If in the judgment of the Harbormaster, there is not an available mooring location to accommodate an applicant's vessel or preference of location, and specific needs, then the Harbormaster shall place the applicant's name, application date, and vessel dimensions upon the appropriate waiting list. For the purposes herein, the Harbormaster shall maintain a waiting list for the assignment of all mooring locations. Applicants shall pay an initial fee upon the filing of a mooring application, and must pay an annual fee by March 31st of each subsequent year to retain their position upon the mooring waiting list. The waiting list will be published on the Town of Fairhaven website.

3.5.4 Mooring Assignment

Subject to the physical constraints of an available mooring location, the Harbormaster will first offer a mooring location available for permanent or temporary assignment to the first person on the appropriate waiting list. If the available mooring location is not suitable in the judgment of the Harbormaster to accommodate the first-named applicant's vessel or specific needs, then the Harbormaster shall offer the mooring location to the next-named, qualified applicant. The applicant so-bypassed shall retain his/her relative position on the appropriate waiting list. An applicant who refuses an initial mooring assignment or who does not notify the Harbormaster of his/her acceptance and/or refusal of said location within 72 hours after receipt of the Harbormaster's notice shall retain his/her relative position on the permanent waiting list. An applicant who refuses a second mooring assignment or who does not notify the Harbormaster of his/her acceptance and/or refusal of said location within 72 hours after receipt of the Harbormaster's notice shall forfeit his/her relative position and shall be placed at the end of the permanent waiting list. Non-use of mooring will result in an applicable charge set forth in the fee schedule.

Renewal of Mooring Permit

Recreational and commercial mooring permits shall expire on March 31 and must be renewed by March 31 of the following year. A recreational and commercial permit holder must complete a new application with the Harbormaster's office by March 31 of each year noting any change in the information pertaining to the "vessel-of-record" and permanent mooring system on file, including, with respect to a recreational permittee, whether the "vessel-of-record" will be used on the mooring during the upcoming summer season. There will still be an application fee for moorings unused (see fee schedule). After Harbormaster review, a permittee will be deemed to have renewed his/her application for a temporary mooring permit for the upcoming calendar year upon the payment of the annual mooring permit fee (see fee schedule). No mooring system, including anchor or ground tackle, may be altered to accommodate a vessel other than the "vessel-of-record" without the prior authorization of the Harbormaster. A mooring system so altered to accommodate a vessel other than the "vessel-of-record" without the prior authorization of the Harbormaster may be removed immediately by the Harbormaster at the owner's sole expense and the mooring permit for that location will be revoked, and the mooring location will be reassigned.

3.6.1 Temporary/Seasonal Mooring Use

A permittee shall notify the Harbormaster if the "vessel-of-record" will not be on the mooring during all or part of the summer season because the vessel will be moored at a slip or on a dock, or for any other reason, including loss, layup, or sale of the vessel. If a mooring permittee fails to notify the Harbormaster by May 1 of any year that the "vessel-of-record" will not be on the mooring during the upcoming summer season, the non-use fee will be charged. Upon notice of an impending hurricane, a vessel using a mooring on a temporary/seasonal "permitted use" basis must vacate that location upon demand of the permit holder or Harbormaster.

3.6.2 Transfer

No recreational or commercial mooring permit or location may be sold, transferred, rented, swapped, assigned, relocated or bartered except as permitted and licensed herein. The holder of a recreational mooring permit may transfer his/her permit to an immediate family member upon the prior authorization of the Harbormaster. For the purposes of this regulation, an immediate family member shall include a parent, sibling, spouse, or child over the age of 18. If a recreational permittee sells, charters, or otherwise transfers or loses possession of the "vessel-of-record" identified in the relevant mooring permit, then the permittee may replace the vessel with another within two consecutive calendar years if the replacement vessel is judged by the Harbormaster to be suitable for that mooring location and system, and the permittee files an amended mooring application with the Harbormaster containing the pertinent information for the replacement vessel being proposed for that mooring location. If the Harbormaster determines that the replacement vessel is not suitable for the existing mooring location, then the permittee must file an application for a new mooring permit, as outlined herein.

3.6.3 Non-Renewal and Reassignment

If a mooring permit is not renewed for any reason, and the mooring location is reassigned by the Harbormaster, the former permit holder, or their heirs, may sell the mooring system, including anchor and ground tackle, to the new permittee. If the mooring system is not sold, then it must be

removed immediately by the former permit holder, and if not, then the Harbormaster may remove the mooring tackle, and the costs associated therewith will be the obligation of the former permittee/owner.

3.6.4 Forfeiture of Mooring Permit

If a mooring is vacant, abandoned, or if there is a non-use of a personal mooring for a period exceeding two {2} years, the mooring permit will not be renewed and tackle will be removed at the Owner's expense.

Mooring Anchors and Ground Tackle

All mooring systems shall meet the minimum requirements set forth in Schedules A and B. These specifications may not be varied without the prior authorization of the Harbormaster.

Mooring tackle should meet the following requirements. Responsibility lies with the mooring permit holder to meet or exceed these guidelines, and to provide a mooring adequate for his/her boat in the location where the mooring is located. The mooring permit holder and the boat owner are responsible for the safety of the mooring, and the Town assumes no responsibility for damages.

3.7.1 Helix Anchor Systems

Helix anchors are preferred mooring systems and shall be installed to a minimum of torque equivalent to the required holding capacity for the vessel. Helix anchors may use high performance shock absorber type systems in lieu of chain systems. All proposed helix systems shall be reviewed by the Harbormaster for authorization. No portion of the helix anchor shall protrude from the sea floor more than one foot.

3.7.2 Steel Dead Weight Systems

A maritime expert deemed acceptable by the Harbormaster shall submit documentation of adequate holding capacity of the steel dead weight system for the vessel and mooring system in order to obtain authorization of the Harbormaster for the mooring system.

3.7.3 Minimum Hardware and Pennant Requirements

All shackles, swivels, fastenings and other hardware shall be galvanized; proportional in size to the chain used; and seized or wired properly to prevent pins from backing out. The maximum length of all pennants shall 3.5 times the height from the water line to the chock. Pennants shall be spliced and shackled to the bitter end of the chain above the mooring buoy. Thimbles shall be used in all splices. Adequate chafing gear shall be used on all pennants.

All moorings shall be constructed so that the chain passes through the mooring buoy. Mooring pennants must be connected to the chain above the float. Thimbles shall be used in all slices, fastenings, shackles, etc. Chafing gear at least 1 foot long shall be used on each pennant. Shackles shall be properly wired to prevent pins from backing out. Above specifications are minimum. In exposed areas, where appropriate, extra weight may be necessary.

Mooring Specifications

Protected Areas							
North of hurricane barrier, Jack's Cove, Round Cove, Nasketucket Bay North of Gilbert St.							
Vessel Length	Mushroom	Pyramid/Trainwheel	Concrete Block	Bottom Chain Size	Top Chain Size	Hardware size	Penanat Line Size
up to 15'	75 lbs.	100 lbs	150 lbs	3/8"	3/8"	3/8"	7/16"
16'-20'	150 lbs	200 lbs	400 lbs	1/2"	3/8"	1/2"	7/16"
21'-25'	250 lbs	300 lbs	800 lbs	5/8"	1/2"	1/2"	1/2"
26'-30'	400 lbs	500 lbs	1500 lbs	3/4"	5/8"	5/8"	3/4" x 2
31'-40'	500 lbs.	1000 lbs	2000 lbs	1"	3/4"	1"	3/4" x 2
41'-50'	1000 lbs.	1500 lbs	3000 lbs	1"	3/4"	1"	1" x 2
Over 50'	As specified by the Harbormaster						
Floats and Docks	As specified by the Harbormaster						
Pennant	Mooring pennant length to be a minimum of 25% of the length of vessel. Maximum length is 50%.						
CHAIN LENGTH	Top chain length to be equal to depth of water at mean high water plus 5 (five) feet. Bottom chain length must be equal to 2 (two) times the depth of water at mean high water. Total mooring length of chain plus pennant, to be a minimum of 4 (four) times the depth of water at mean high water.						

Exposed Area							
South of hurricane barrier, General Anchorage A, Wilburs point to West Island, North Cove, Seaview Ramp South of of Gilbert St.							
Vessel Length	Mushroom	Pyramid/Trainwheel	Concrete Block	Bottom Chain Size	Top Chain Size	Hardware size	Penanat Line Size
up to 15'	150 lbs.	200 lbs	500 lbs	1/2"	3/8"	3/8"	7/16"
16'-20'	250 lbs	350 lbs	800 lbs	5/8"	1/2"	1/2"	1/2" x 2
21'-25'	500 lbs	750 lbs	1500 lbs	5/8"	5/8"	5/8"	5/8" x 2
26'-30'	750 lbs.	1000 lbs	2000 lbs	3/4"	3/4"	3/4"	3/4" x 2
31'-40'	800 lbs.	1,500 lbs	3000 lbs	1"	1"	1"	3/4" x 2
41'-50'	1500 lbs.	2,000 lbs	4000 lbs	1"	1"	1"	1" x 2"
Over 50'	As specified by the Harbormaster						
Floats and Docks	As specified by the Harbormaster						
CHAIN LENGTH	Top chain length to be equal to 2 (two) times the depth of water at mean high water. Bottom chain length must be equal to 2 (two) times the depth of water at mean high water. Total mooring length, chain plus pennant, to be a minimum of 5 (five) times the depth of water at mean high water.						
Pennant	Mooring pennant length to be a minimum of 25% of the length of vessel. Maximum length is 50%.						
Mooring Construction	Moorings are to be constructed so that chain runs through a float at the surface. Mooring pennants must be connected to the chain above the float. Thimbles shall be used in all splices, fastenings, shackles, etc. Chafing gear at least 1 (one) foot long shall be used on each pennant. Shackles shall be properly wired to prevent pins from backing out.						
Note:	All specifications above are minimum requirements.						

Example: Minimum mooring inspection information					
Mooring component	Nominal Size	Length	Maximum wear measured (maximum allowable wear 30%)	Within Spec? Yes / No	Notes
Pennant	5/8"	15'	9/16" cleat eye	Y	chafe gear shows wear
Shackle	5/8"	n/a	1/2"	Y	
Mooring Float	18"	n/a	none detected	Y	> 1/2 floats above water surface
Top Chain	1/2"	30'	7/16"	Y	
Shackle	1/2"	n/a	7/16"	Y	
Swivel	5/8"	n/a	3/8"	N to Y	center worn to 3/8"= replaced
Shackle	5/8"	n/a	1/2"	Y	
Bottom Chain	5/8"	25'	1/2"	Y	
Shackle	3/4"	n/a	5/8"	Y	
Mooring Eye	1"	n/a	7/8"	Y	
Mooring Type	350lb. Mushroom	n/a	n/a	Y	Moderate corrosion

Inspection form to be completed by Inspector

Inspection, Care, and Maintenance

The inspection, care, and maintenance of mooring tackle, including mooring, chain, buoy, pennant, and associated swivels, shackles, thimbles, and eye splices, are the responsibility of the permittee. All moorings must be inspected every three years with an inspection report containing, at minimum, the detail outline in the Mooring Inspection Information example provided within these regulations. This report, with detail of compliance, must be submitted to the Harbormaster. Vessels over the size of 26 feet, as well as all commercial moorings and moorings for commercial vessels, must be inspected by a certified mooring inspector approved by the Harbormaster. Reports must be forwarded to the Harbormaster, at the expense of the permittee. The permittee will be notified at the time of annual renewal when the mooring tackle is due for inspection. An inspection must also be performed before any reassignment. After reassignment, an initial inspection shall be made with an inspection report of compliance or non-compliance submitted to the Harbormaster within seven days after inspection.

Use by "Vessel-Of-Record"

No person will secure a vessel on a mooring except the "vessel-of-record" without prior written authorization of the Harbormaster.

Emergency Provisions

In an emergency, the Harbormaster may assign a vessel to a vacant mooring as long as the assignment does not interfere with the use of that mooring by the "vessel-of-record."

Mooring Buoys and Markings

All mooring locations shall be identified with mooring buoys of distinctive colors and markings approved by the Harbormaster. All mooring permit numbers are permanently assigned. The number will not change from year to year. Mooring buoys shall be commercially made and

marked with the mooring registration number assigned to that mooring location. All markings on mooring buoys shall be block characters of at least 1 inch in height and must contrast in color with the background permanently attached or painted thereon and visible and legible whether or not the mooring is in use. Other mooring ball systems may be used only upon approval of the Harbormaster. Kegs are not allowed as mooring buoys.

Swim Floats and Rafts

All swim floats or rafts require a mooring permit (one permit per anchor). Applications for such structures shall be subject to the same permitting procedures contained herein and shall be subject to these regulations and all other applicable federal, state, and local laws, regulations, and rules.

Miscellaneous

The Harbormaster may allow dry sailing of small boats from floats or rafts on a case-by-case basis.

Mooring Stakes/Trolley Poles

All mooring stakes and any type of pulley or trolley system require a mooring permit. Applications for such structures shall be subject to the same permitting procedures contained herein and shall be subject to these regulations and all other applicable federal, state, and local laws, regulations, and rules.

3.14.1 Winter Stakes/Sticks

Without prior authorization of the Harbormaster, winter stakes shall be installed no later than November 15 of each year at all mooring locations. Winter stakes must be set in such a way that they do not lay flat on the water surface and shall be readily visible above the water at all times when installed with a minimum of 18 inches visible above the water line. Winter stakes must have the mooring registration number assigned by the Harbormaster visible and legible. Winter stakes must be removed from all mooring locations between by June 1. If a winter stake is not removed by June 1, it may be removed immediately by or at the direction of the Harbormaster and the costs associated therewith shall be the responsibility of the permittee. If an otherwise non-conforming winter stake is not removed within 14 days of notice by the Harbormaster, or the costs of removal are not paid within 14 days of demand, then the winter stake and mooring location shall be deemed abandoned and the winter stake disposed of in accordance with applicable law and the mooring permit for that location will be revoked. Nothing contained herein shall constitute an assurance or obligation that the Harbormaster shall remove such winter stake, and the obligation to do so and the liability arising therefrom, shall remain that of the permittee.

Permit Fees

Annual mooring permit fees are due and payable on March 31 of each calendar year. An additional late mooring registration fee, according to the fee schedule, is required to continue a mooring permit if the annual mooring permit renewal form and fee is not received by the Town by March 31 of any year. Permit fees and late penalties, if unpaid for more than 90 days from the

due date of March 31 in any year will cause the Harbormaster to revoke the mooring permit. Any mooring system not removed within 30 days thereafter may be removed by the Harbormaster at the owner's sole expense.

Right of Appeal

Any person aggrieved by a refusal to permit such temporary mooring, or by any condition or restriction imposed relative to such mooring, may have the right of appeal to the Board of Selectmen under MGLs.

3.17 Mooring Use during Storm Conditions with Winds of 40 mph or More

In storm conditions, all vessel owners with a mooring are urged to remove their vessel from their mooring in high wind conditions. They are encouraged to check with their insurance company to see if they will pay for all or part of the haul fee. They are also urged to check that their liability insurance will cover any damages to their vessel or damage done to another vessel or property if it was to break free from their mooring.

INSERT TEXT ON INDEMNIFICATION / LIMITS ON LIABILITY WITHIN MOORING APPLICATION – TOWN COUNCIL TO PROVIDE

Non-permitted vessels tied to moorings in Fairhaven waters may be removed by the Harbormaster at the expense of the vessels owner. The owner will be responsible for towing and storage charges. All charges must be satisfied before the vessel is released.

Owners of moorings that allow another vessel to use their mooring during storm conditions may have their permit revoked and not reinstated the following year.

Owners are encouraged to haul their vessel under storm conditions.

4 Anchorage within Fairhaven Waters

4.1 Anchorage – Non Storm Conditions

Anchoring north of the Hurricane Barrier to the Fairhaven Bridge/Route 6 is prohibited under all conditions within the waters of Fairhaven. This area is to the east of the channel within New Bedford Harbor, as shown on charts. This order is due to existing uses and bottom conditions that have demonstrated an inability to hold secure vessels at anchor.

Anchoring is prohibited south of Crow Island and north of Steamship Authority due to existing vessel traffic associated with Union Wharf, Fairhaven Shipyard, and the Steamship Authority.

Anchorage is prohibited south of the Fairhaven Bridge, within existing mooring fields under all conditions.

Vessels that anchor without specific permission of the Harbormaster may be removed at the owner's expense. All towing and storage charges must be paid before the vessel is released.

4.1.1 Exemptions

Vessel may apply for an exemption from this rule by contacting the Harbormaster. The Harbormaster may allow a vessel to anchor for a short time while waiting to be pulled from the water by a Fairhaven ship yard. When a vessel is exempted, the vessel must have someone onboard at all times while anchored. The person onboard must be qualified to take control of the vessel if it starts to drift.

4.2 Anchorage During Storm Conditions with Winds of 40 mph or More

Person wishing to seek anchorage within the New Bedford Hurricane Barrier do so at their own risk. Anyone seeking anchorage understands that the prescribed areas as determined by the duly authorized Fairhaven Harbormaster are for the purpose of establishing order and does not imply that using said areas will protect any property or parties using anchorage areas.

It is further understood that this policy represents waters normally covered by the duly authorized Harbormaster of Fairhaven, MA and does not intend to make policy for water normally covered by the City of New Bedford and its agents.

Anchorage is prohibited south of the Fairhaven Bridge, within existing mooring fields under all conditions.

4.2.1 Storm Anchorage

All vessels anchoring shall maintain at least five boat lengths from any other vessel anchored. Allow for slack in anchor line when calculating distance between vessels.

All vessels shall have enough scope on their anchor lines to ensure the vessel does not rise above the anchor.

All anchored vessels shall use a correctly sized anchor with a second line attached to the anchor. Lines shall be connected in such a manner to produce a bridal type connection to the bow of the vessel. Owners shall use properly sized lines in excellent condition.

Owners shall call the Harbormaster Office and register their name and name of the vessel with location (longitude and latitude, if possible) with a contact number.

Anyone anchoring their vessel shall not trespass on private property to gain access to their vessel.

Anyone using the Pease Street ramp understands they will not be allowed to tie up at the ramp.

Call Army Corps of Engineers for barrier information (508) 759-4431 or VHF Channel 16.

Union Wharf

General

All vessels, persons, and vehicles using the Union Wharf shall be governed by the rules and regulations contained herein and all other applicable laws, by-laws, rules and regulations, and orders, if any, concerning the operation of vessels and the use of piers, including, without limitation, those promulgated by the United States Coast Guard, the Environmental Protection Agency, the Department of Environmental Protection, the Commonwealth of Massachusetts, the Town of Fairhaven, and any other court or agency acting within its jurisdiction.

All vessels, persons, and vehicles using Union Wharf shall be responsible for the security of their own property. The Town, its officials, agents or employees shall not be responsible for the loss of or damage to life, persons or property occurring at Union Wharf and facilities owned, controlled, or operated by the Town from any cause whatever.

5.2 Use of Union Wharf

The use of Union Wharf shall be under the direct supervision and control of the Harbormaster. Union Wharf is primarily for the general use and benefit of commercial fishing vessels, and for the passive enjoyment by the general public. Except as set forth in Article 4-5, below, no vessel shall dock at Union Wharf without first obtaining a valid docking license from the Town of Fairhaven. Any use of Union Wharf, other than by a valid docking license or the passive enjoyment by the general public, is strictly prohibited on Union Wharf, unless expressly authorized by the Town.

All users of Union Wharf shall be subject to all applicable laws and the rules and regulations of the Town of Fairhaven, including the laws and regulations of the Town of Fairhaven regarding personal conduct and behavior, and any rules or terms and conditions attached to an approved docking license. The owners, operators and occupants of such boats shall not permit acts contrary to good order, public safety or public health, including public profanity or obscene language or indecent exposure or behavior. No one using any of the Town's wharves, floats or piers shall cause any unnecessary noise, loud talking or playing of music or other devices between the hours of 10:30 p.m. and 7:30 a.m. Abusive language, actions, threats and/or illegal activities are subject to enforcement by the Harbormaster and/or the Police Department. Owners and Captains of any vessel berthed at Union Wharf are responsible for the conduct of their crew at all times.

The consumption of alcoholic beverages at or on Union Wharf is prohibited.

When stretching wire on Union Wharf, a line and a block will be used. Wires are not to cause damage to any parts of the Pier, such as poles, ladder, utility boxes, or cap rails. No wire will be stretched after 9:00 a.m. from April 30 until October 1, unless expressly authorized by the Harbormaster.

No rope, line or other equipment shall be allowed to pass across any channel or dock in such a way that it would be likely to obstruct or interfere with navigation or the use of the facilities.

The Town will not be responsible for any loss or damage to boats or vessels at the Town wharves, floats, piers or moorings. Owners will be held responsible for damage caused by them or their vessels to structures and pilings and related facilities owned by the Town of Fairhaven.

The Town reserves the right, in its sole discretion, to use spaces not in use by annual docking license holders during the period the space is vacant.

All vessels using Union Wharf shall be maintained in a safe, sound and seaworthy condition and capable of getting underway under its own power except in cases of temporary incapacity during emergency repairs. The owner or operator of any vessel incapable of getting underway on its own power for a period greater than twenty-four hours shall notify the Harbormaster.

The Harbormaster has the right to determine if any vessel in Town waters is unseaworthy, dangerous or in such a badly deteriorated condition as to render it unsafe. Docking and berthing privileges may be denied to any vessel, which in the opinion of the Harbormaster, is not in a safe, sound and seaworthy condition or which poses a hazard to the safety of Union Wharf, vessels, the public, or the environment. Any such vessel tied to Union Wharf may be directed to leave Union Wharf by the Harbormaster. Upon making such a determination, the Harbormaster shall give notice to the owner by posting notice of such determination on the vessel, and (a) if the address of the owner is known, then by mail, email, or hand-delivery to the owner, or (b) if the owner is unknown, then by publication in a newspaper of general circulation within the Town. If after 10 days following the publication or written notice as provided in the preceding sentence, the owner has failed to remedy the conditions leading to the determination, the Harbormaster may take appropriate steps for removal of the vessel. At any time, the Harbormaster, notwithstanding the foregoing, may act immediately in event of an emergency to take appropriate steps for immediate removal of any vessel that presents an eminent threat to life or property, provided, however, that as soon as practicable after taking such action, notice of the action taken shall be provided in the manner set forth in this section. If, after 30 days from the date of notice or publication, the owner of a removed vessel shall fail to reimburse the Town for removal cost, the vessel may then, at the discretion of the Harbormaster, be sold at public action to cover the costs of removal. This shall not be deemed to apply to vessels in immediate distress as a result of current emergencies, as determined by the Harbormaster.

Servicing of vessels, including but limited to hot works/welding*, electronic and hydraulic repairs, replacing gear, and engine repairs, at wharf side, shall be allowed at the discretion of the Harbormaster provides other wharf operations are not adversely affected. *Hot work requires a permit from the Fairhaven Fire Department. Personnel applying for a permit must comply with 527 CMR 41.

The owners or captains of all vessels using Union Wharf shall make available to the Harbormaster the names of at least two qualified persons who can be contacted in the event of the need to move vessels. Upon order of the Harbormaster, all vessels must be moved within 30 minutes.

The owner or operator of any vessel docked at Union Wharf should provide the Harbormaster with a set of main door hatch keys and ignition keys. Vessels will be entered by the

Harbormaster for inspection or for emergency service, and otherwise only with the permission of the owner. No other person will be given keys or allowed on the boat without the owner's written permission.

5.3 Docking License

5.3.1 Requirement for Docking License

All vessels wishing to utilize Union Wharf shall obtain in advance from the Town an annual docking license for the use of Union Wharf. An application for a docking license is available at the Fairhaven Town Hall in the office of the Harbormaster.

5.3.2 Eligibility for a Docking License

Only the primary operator of a commercial vessel, which is seaworthy and covered by adequate insurance, as outlined in these Regulations, shall be eligible for a docking license.

5.3.3 License Term, Payment, Priority, Waiting List

Users are charged on a per-day basis. The initial deposit is refundable upon expiration of the docking license. Any unpaid fees or costs to the town will be paid from the user's initial deposit.

Bills will be sent to vessel owners on the 1st of every month. Failure to pay a bill within 30 days of its issuance may result in the revocation of License, and the assigning of that License to a different vessel. Any outstanding fees will be withdrawn from the owner's initial deposit.

All users or owners of vessels who fail to pay their docking fees when due shall be considered in violation of these regulations and be charged 1 ½% interest per month, and for all costs of collection, including but not limited to court costs, attorney fees, and sheriff fees. Any vessel docking at Union Wharf after its Primary Operator fails to pay the docking fees when due shall be fined \$50.00 for every 24-hour period thereafter.

Docking licenses shall be valid for a period of one year, from July 1 through June 30. Applications and renewal applications shall be submitted no later than April 1 prior to the license period, and full payment of the initial deposit shall be submitted no later than June 1 prior to the license period. In the event a docking license is issued after June 1, the initial deposit shall be paid immediately upon issuance of the docking license, or upon demand by the Harbormaster, whichever comes first.

A docking license shall be issued only after receipt of a complete Application Form. The renewal of licenses shall receive priority over new applications. The issuance of new applications shall be on a first-come first-serve basis. In the event that there are more applications than available berths, the Harbormaster shall maintain waiting lists (Small Boat Basin, North Side, and Large Vessels), which shall be available for public inspection at the office of the Harbormaster. New licenses shall be issued in accordance with the waiting list. Persons on the waiting lists shall be notified of an available berth by certified mail sent to the address on the application, and the Harbormaster shall give the person no less than 30 days to respond to the

notice. The Harbormaster may, in his/her sole discretion, require updated information from the person on the waiting list before issuing a docking license.

The Town reserves the right to deny or revoke a docking license for the Small Boat Basin if the Town determines, in the sole discretion of the Harbormaster, that the person holding the docking license is not actively using his/her commercial fishing license. The Harbormaster shall take into consideration such information as the fishing history of the vessel for the previous two years, trip landing records for the vessel for the previous two years, the number of days-at-sea that the vessel is authorized to use during each year and any such other information the Harbormaster may deem relevant to his/her determination.

Any changes in any line of the application on file will be cause for the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel to immediately correct the application on file. Changes such as ownership, name, responsible parties and or contact numbers but not limited to are examples. Failure to not do so will not relieve the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel of the burden of payments due the Town of Fairhaven, MA. Upon signature of the application by the duly authorized person/agent of the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel accepts the responsibility of payment for any money owed for dockage, legal cost, removal and storage charges that may be charged to the fishing vessel.

Vessel owners may use the balance of their deposit for the following year.

The daily fee and initial deposit amount is listed on Fee Schedule. Said deposit and fees shall be made payable to the Town of Fairhaven.

5.3.4 Terms of Docking License

A docking license shall entitle the registered owner to the use of and access to the Wharf in common with other license holders, subject to the rules and regulation of the Town and any terms and requirements attached to an approved docking license. Agreement to the rules and regulations set forth in this document are understood by the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel by signing of the application as required, the use of the dock authorized or not, payment for use of 1 day at Union Wharf. Failure to sign the application and or agree to the rules and regulations will be cause to terminate use of the Union Wharf immediately.

The following terms and requirements, as they may be amended, are hereby incorporated into each docking license issued under these regulations:

“ASSIGNED BERTHS”: The Harbormaster reserves the right to assign and to re-assign from time to time a particular berth for a licensed vessel. An approved license shall create a license to use Union Wharf in common with others as provided herein, and shall not be considered either a tenancy or a bailment.

“AMENDMENT OF TERMS AND CONDITIONS; RULES & REGULATIONS”: The Town reserves the right to alter or amend the terms and conditions of a license, and to issue rules and regulations from time to time by:

- ♦ Written notice to licensee; or
- ♦ Publication of notice by posting at Union Wharf.

“AUTHORITY”: The applicant’s signature on the license application shall be deemed his/her representation that he/she is the owner of the vessel, or is an authorized agent or principal of the owner, with authority to bind the owner to the terms of the license, and that they have read the Waterways Regulations and agree to comply.

“CHANGE OF OWNERSHIP:” Any change in the vessel’s use, ownership, primary operator, or mailing address shall be promptly reported to Harbormaster. Failure to promptly report such change shall be considered a violation of these regulations. In the event that such change affects the eligibility of the vessel to hold a docking license, the license shall be immediately void and the vessel shall immediately cease use of Union Wharf and vacate the vessel’s assigned berth.

“COMPLIANCE WITH LAW”: Licensee shall comply with, and the same are incorporated herein, all Federal, State, and local statutes and regulations.

“DOCKING OF VESSEL”: The captain or owner of any vessel berthed at Union Wharf shall be responsible for causing such vessel to be at all times tied and secured or anchored with proper care and equipment in such manner as may be required to prevent breakaway and resulting damage. All vessels docked at Union Wharf shall be manned during all storm or hurricane warnings, or at the reasonable request of the Harbormaster.

“EMERGENCY REMOVAL”: In the event of hurricane or other severe weather warning, the Harbormaster may direct the licensee to remove the vessel from the Berth licensed herein. In the event of failure to remove the same, the Harbormaster may remove the vessel at owner’s expense without liability for any damage which results from any cause.

“FUEL AND HAZARDOUS ACTIVITIES”: Fuel storage of any kind shall be prohibited unless contained within the fuel tank of the vessel. Except in an emergency, no boat shall fuel at the Town's wharves, floats or piers without the permission of the Harbormaster. Fueling of vessels at Union Wharf shall be prohibited, except by companies or individuals that have been permitted by the Department of Fire Services and that comply with all state and federal regulations. Any company or individual must meet the requirements of 527 CMR 42.9.

Open fires, including cooking, recreational, and open burning shall be prohibited on any part of the pier or on any vessel.

“INSURANCE”: All vessels berthed at Union Wharf shall at all times maintain Protection and Indemnity (P&I), and Water Pollution Liability Insurance with a minimum available coverage as follows: \$300,000 for Small Boat Basin; \$1,000,000 for North Side and Large

Vessels. The Town of Fairhaven shall be named as additional insured for all insurance policies. Insurance certificate shall state that insurance company will notify the Town if and when the policy lapses. Notwithstanding anything contained in these terms and conditions, and any applicable rules and regulations, the prescribed P&I policy must not contain any exclusion for wreck removal costs.

“LICENSEE'S LIABILITY; INDEMNITY OF TOWN”: Licensee covenants to exercise due care in occupation of its assigned Berth and to vacate the Berth in good condition, wear and tear occasioned by normal use only excepted, at the termination of the within license. Licensee shall be responsible for, and agrees to reimburse the Town for, all damages, injuries, losses, costs and expenses, including attorneys' fees, which may be suffered or incurred by the Town to extent that any such damage results from the actions or omissions of licensee, or his/her employees, guests, invitees, agents or contractors in use of the Berth and Wharf facility pursuant to this license. Licensee shall indemnify, defend and hold the Town harmless from and against all claims, actions, proceedings, damages, and liabilities, including attorneys' fees, arising from or connected with the use and occupancy of the Berth and use of the Wharf facility by the licensee his/her employees, guests, invitees, agents, and contractors, including without limitation (i) any environmental damage caused by spillage or disposal of fuel, oil, sewage or other hazardous materials, and (ii) personal injury or property damage claimed by any employee, agent, guest or invitee of the licensee or of the licensed vessel.

If for any reason a fishing vessel has been deemed not in compliance with the rules and regulations and actions authorizing the removal of the Fishing Vessel are undertaken/ implemented, the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel hereby upon signing the application to use Union Wharf, indemnifies the Town of Fairhaven and or their duly appointed agents for any damages that may be incurred due to the removal of the fishing vessel. This includes damages incurred by the fishing vessel, Corporation, Shareholders of the Corporation or any other entity involved with the fishing vessel and or any other vessels nearby during the removal and storage process. Any damages incurred during the storage and recovery of the vessel shall be included in the indemnity of the Town of Fairhaven.

“LIMITATION OF TOWN'S LIABILITY”: Licensee acknowledges that he or she has inspected the assigned Berth and is satisfied that the Berth is adequate for safe mooring of the vessel. This contract is not a bailment of the licensee's vessel, but is a license for the use and occupancy of the Berth and other Wharf facilities hereunder. Town's employees will make reasonable efforts to contact and notify licensee of dangerous conditions requiring licensee's attention, but the Town assumes no responsibility for tending mooring lines or moving vessels from the berths to which they are assigned. The Town shall not be liable or responsible for the care and protection of the vessel (including gear, equipment and contents) nor for any loss or damage of whatsoever kind or nature to the vessel, its contents, gear, or equipment, howsoever occasioned.

“LICENSEE'S RESPONSIBILITY”: Licensee acknowledges that the Town is not a bailee, but acknowledges that Town will have a lien against the vessel, its tackle and equipment with respect to all charges incurred hereunder and shall have the right and authority to retain

possession of the vessel until all such charges are paid, and in the event such charges are not so paid or if licensee fails to claim and remove the vessel from the Berth or other area of the Wharf facility after the end of the term of this license or after the Town's reasonable request to do so, the Town is hereby authorized by licensee to sell the vessel at public or private sale upon reasonable notification to licensee at licensee's home address as listed in this license. If the Town is unable to sell the vessel, the Town may dispose of the vessel in a reasonable manner with no liability on the Town's part to licensee. Further, the parties agree that if notice is given by mailing, as aforesaid, and there is no response within thirty (30) days, the Town may treat the vessel and its equipment as if they have been abandoned and proceed to sell or otherwise dispose of the vessel as set forth above.

“MAINTENANCE”: Only ordinary, light maintenance shall be permitted on the vessels docked at the Wharf. Licensee must notify the Town in advance of the employment of any outside commercial labor on the vessel. Prior to the Town approving such labor, the Town must be provided with certificates of insurance protecting the Town to its satisfaction.

“MAINTENANCE OF WHARF”: Licensee shall immediately notify the Harbormaster of the necessity of repairs to piers or of any dangerous conditions requiring attention. Licensee shall not alter piers or berthing fingers in any way without the prior written permission of the Harbormaster.

“NO SUBLET”: Licensee shall not sublet or assign the Berth licensed herein.

“NO SWIMMING”: There shall be no swimming or diving from Union Wharf or from any vessel docked at Union Wharf. Minors must be supervised by an adult at all times. Notification must be given to the Harbormaster if Commercial Diving is required.

“NO TRESPASS” orders when issued by the duly authorized agent the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel agree to remove the fishing vessel within 3 (three) business days. Failure to do so will be cause to have the fishing vessel removed. If within the 3 (three) day period the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel wish to appeal they must do so in writing during the 3 (three) day period to the Board of Selectmen. During the appeal period any action to remove the fishing vessel will cease. However if the appeal is denied the fishing vessel will be removed 1 (one) business day later.

“RESIDENCE”: No vessel berthed at the Wharf shall be used as a residence, unless specifically authorized in writing by Harbormaster.

“RIGHT TO APPEAL” any decision of the duly authorized agent of the Town of Fairhaven is provided to the Owner(s)/ Corporation or Shareholders or any other entity involved with the fishing vessel by the Town of Fairhaven within the 3 business day period in regards to a NO TRESPASS order or within 7 days of any other action taken by the Town of Fairhaven, MA and or their duly authorized agents by filling such an appeal in writing to the “Board of Selectmen” Town of Fairhaven, MA within the provided timeframes indicated.

“SHIFTING VESSEL IN OWNER'S ABSENCE”: The licensee hereby authorizes the Harbormaster to remove the vessel from the Berth whenever the Harbormaster deems it necessary for safety or for maintenance of Union Wharf. Licensee releases and saves the Town and its servants, agents and employees harmless from any liability or damage arising out of such activity. Licensee will provide the Town with a set of main door, hatch and ignition keys for such use.

“STORAGE ON PIERS”: Licensee shall keep the berthing space and adjacent pier area clean and litter free and nothing shall be stored thereon without the prior written permission of the Harbormaster. No person shall leave any boat or vessel, or any fishing equipment, fish or any other personal property, or waste, upon Union Wharf for any period longer than reasonably necessary during the loading or unloading of a vessel. The decks, floats, structures, and waterways of Union Wharf and other Town-owned and operated docking and berthing facilities shall not be obstructed for any purpose other than the berthing of, access to, and loading and unloading of vessels. There is a 3 hour maximum time limit. Storage or repair of traps, nets, gear, bait or other supplies beyond 48 hours is prohibited except with the permission of the Harbormaster and in areas designated for storage or repair. Licensees shall be required to clean up any debris on completion. Nets must be in a container with the name of the vessel indelibly labeled on container. All users of Union Wharf are responsible for removal of any gear, trash and general cleanup of the area around their vessels.

“TERMINATION FOR VIOLATION”: If licensee violates any of the terms or conditions herein stated or the rules and regulations promulgated hereunder, the Town may cancel this License Agreement upon 10 days written notice to licensee mailed by regular mail to the home address listed in the license application, and licensee shall forthwith remove the vessel from the Wharf facility. In the event that Town determines that licensee's failure to comply with the terms of this agreement and/or laws or any rules and regulations results in an emergency condition, environmental or otherwise, the Harbormaster may direct the owner or operator to remove the vessel immediately. In the event that licensee does not promptly comply with the direction to remove the vessel, the Town may exercise the remedies set forth in the EMERGENCY REMOVAL paragraph above.

“USE”: Licensee shall use the vessel only as a commercial fishing vessel.

“WAIVER OF TERMS AND CONDITIONS”: No failure of the Town, Harbormaster, or his/her employees to enforce any of the terms and conditions of this License Agreement is or shall be considered to be a waiver of such term or condition in the absence of an express written waiver by the Town or Harbormaster.

5.3.5 Docking of Unlicensed Vessels, Removal of Unauthorized Vessels

Unlicensed vessels otherwise in compliance with the provisions of these regulations with regard to vessel type and use may dock at Union Wharf at the discretion of the Harbormaster on a day to day basis. The owner or operator of an unlicensed vessel shall request prior permission from the Harbormaster and before being allowed to dock shall pay the Daily user fee for unlicensed vessels as set forth in Attachment A. Failure to pay the daily user fee prior to the commencement of any subsequent 24-hour period shall render the vessel an unauthorized vessel.

Unlicensed vessels which are docked at Union Wharf with the permission of the Harbormaster shall be subject to all the regulations and licensing terms set forth herein.

Unauthorized vessels shall be removed promptly by the owner or operator at the request of the Harbormaster on-duty. If the vessel is not removed, it will be subject to ticketing or towing charges payable by the owner of the vessel. The Town is not in any way responsible for unauthorized vessels docked at Union Wharf or in licensee berths.

5.3.6 Appeal

Any person aggrieved by a decision of the Harbormaster with respect to the issuance, non-issuance, or revocation of a docking license, within seven calendar days, give written notice of an appeal of the decision to the Board of Selectmen. Said notice shall state, with reasonable particularity, the grounds upon which the person appeals. The decision of the Board of Selectman shall be final.

5.3.7 Pollution Prevention

Garbage, sewage, and refuse shall be properly disposed of. Persons using Union Wharf shall wash down the surface after unloading fish and at other times as required, or as directed by the Harbormaster.

Waste oil, bilge liquids, spent antifreeze, and other hazardous materials shall be properly stored and disposed of in accordance with Massachusetts Hazardous Waste Regulations (310 CMR 30.000).

5.3.8 Fees

Unless otherwise provided by law or by-law, the Board of Selectmen shall establish all fees under these regulations.

5.3.9 Penalties

Violations of any provisions of these regulations, may be penalized **by a non-criminal disposition as provided (TOWN COUNCIL TO CONFIRM)** under MGLs, Chapter 40, Section 21D. Each day on which a violation exists shall be deemed a separate offense.

Licensees and other users of Union Wharf who fail to pay the required fees and/or fail to comply with other requirements for use of Union Wharf shall forfeit use privileges at Union Wharf forthwith and may be subject to collection procedures. In addition to the remedies set forth in these regulations and licensing terms the Town may refuse to issue any future license to the violator.

5.3.10 Miscellaneous

If any provision of these regulations is held invalid or inoperative, the remainder shall continue in full force and effect as though such invalid or inoperative provisions had not been made.

5.4 South Side Small Boat Basin

The following additional regulations apply to the south side small boat basin / lobster boat basin:

- ◆ Vessel owner must be a resident of the Town and show proof of residence upon request.
- ◆ All vessel owners must notify the Harbormaster when vacating their assigned berth for a period in excess of 14 days. The Town reserves the right, in its sole discretion, to use spaces not in use by annual license holders during the period when the space is vacant.
- ◆ Slip holders cannot sub-lease their slips.
- ◆ Slip holders must register a primary vessel to their slip. If they own a second vessel they may place that vessel in that slip if approved by the Harbormaster. Approval must be obtained before a second vessel is put in place.
- ◆ Vessel to be approved must be registered to the slip owner, actively fishing and have proof of pollution and liability insurance at the proper levels and show proof thereof to the Harbormaster.
- ◆ If a slip holder wishes to use another vessel for a short period due to maintenance issues and or workability issues they may only do so with the approval of the Harbormaster. All approved vessels must have pollution and liability insurance at proper levels. Proof thereof must be shown to the Harbormaster. All Approved vessels must be used by the slip owner requesting use of their slip and not another person. This period of approval will be in 14 day increments. Any extension of that period is subject to approval of the Harbormaster. Proof of need must be provided by the requesting party.
- ◆ All requests for approval must be submitted to the Harbormaster at a minimum of 24 hours before the event, not counting weekends.
- ◆ All vessels using the Union Wharf Lobster Basin South facing slips must dock stern in. The stern must be able to back in to a distance no greater than 2 feet from the dock at the stern.
- ◆ All vessels must dock in their assigned slips in such a manner as the vessel will not interfere with the operation of other vessels using Union Wharf Lobster Basin slips. This includes town owned vessels using the finger docks at Union Wharf.
- ◆ All vessels that are to be docked at the Union Wharf Lobster Basin slips must be approved by the Harbormaster without exception. The Harbormaster shall consider the rules and regulations as established for the Union Wharf Lobster Basin. However, in addition to the rules and regulations, the Harbormaster must consider the effect of the vessel on the daily operation of other vessels using Union Wharf Lobster Basin slips including town owned vessels using the docks. This includes beam of the vessel the draft of the vessel regardless of its length. In addition the Harbormaster must assess the wear tear effect on the slip in regards to size of the vessel and the size of the slip being used.

The ability of the vessel to properly utilize the slip in regards to its ability to properly dock in the slip in regard to overhang past the dock is a major factor. If the Harbormaster determines that the vessel is detrimental to the dock site and or the daily operation in the Union Wharf Lobster Basin he/she may not allow the vessel to use the slip. This is a subjective evaluation by the Harbormaster and if the vessel is denied use of the slip the Harbormaster must explain in writing the reason(s) why it was denied.

- ◆ Length limits are determined by the overall length and not at the waterline. If there is a question of length the Harbormaster and or his/her agents must be allowed to go aboard to measure the overall length of the vessel.

5.5 North and West Side of Union Wharf

The following additional regulations apply to the North and East sides of Union Wharf:

5.5.1 General Use Regulations

- ◆ Vessel must be a large active fishing vessel commercially licensed 60 feet or larger up to 105 feet, if space available. Exception is berths on that portion of the North side of Union Wharf between the public safety marina and the pre-existing berths for large fishing boats. Vessels must demonstrate commercial usage within 6 months recency by way of catch report or log.
- ◆ Fishing boats, charter boats, tug boats, cargo boats and other boat used for commercial or educational purposes and of the design and dimensions to allow for the vessel to safely berth at the assigned slip shall be eligible to berth on that portion of the North side of Union Wharf between the public safety marina and the pre-existing berths for large fishing boats.
- ◆ Transient vessels are required to have the same insurance coverages as applicants for annual berths.
- ◆ Transient vessels are limited to no more than 60 days per year, and no more than 15 consecutive days during a calendar year.

5.5.2 Union Wharf North Side - Application and Selection Process

The owner of a vessel eligible to moor at Union Wharf North shall complete a written application on a form provided by the Harbormaster. The Harbormaster will make an initial determination whether the application is complete and whether the applicant is qualified under the terms of these regulations. The determination of the Harbormaster may be appealed by the applicant to the Board of Selectmen in writing which must be received by the office of the Board of Selectmen no later than 3 days following notice to the applicant of the Harbormaster's determination.

In the event of an emergency and to prevent imminent harm to persons or property, the Harbormaster may waive these application requirements for a period of up to 7 days, and may allow a vessel to moor on Union Wharf North during the period of waiver.

Open slips shall be filled on a "First Come/First Served Basis" from those applicants who have completed their applications and have maintained their eligibility under the terms of these regulations, and who enter into an agreement with the Town as set forth in these regulations.

Should the number of qualified applications submitted by the initial deadline for applications exceed the number of slips available, following any appeals to the Board of Selectmen under the first bullet point above, the Harbormaster will conduct a lottery with each qualified application given a number in the order in which they are drawn. In a descending order, the available slips will be awarded to the applicants until the slips are fully allocated, after which the remaining applications shall be placed on a waiting list also in descending order. Applications received after the initial deadline will be placed on the waiting list in the order received. Annually in December of each year, each applicant on the waiting list who wishes to remain on the waiting list for the upcoming calendar year shall notify the Harbormaster in writing of his/her desire to remain on the waiting list. If an applicant fails to so notify the Harbormaster by December 31, the Harbormaster will remove the applicant from the waiting list.

All applications shall be reviewed for completeness, and initially approved by the Harbormaster, before being submitted to the town administrator for final approval by the Board of Selectmen. In order for an application to be approved, the application must meet all the following criteria:

- ♦ The application must be filled out completely and signed by the owner or operator of the vessel. The applicant must provide proof of ownership of the vessel, or of authority from the owner to act as operator of the vessel.
- ♦ The applicant must be a resident of the town and show proof of residence upon request.
- ♦ The applicant must show proof of insurance coverage, with the Town as an additional insured, for General Liability in the amount \$1,000,000.00 and for Pollution Coverage in the amount of \$1,000,000 applicable for the duration of the proposed agreement. Insurance certificate shall state that insurance company will notify the Town if and when the policy lapses.
- ♦ The applicant must not have any recent or existing violations of maritime rules or regulations. An application may be denied if the applicant's history of maritime violations shows a pattern of failure to comply with rules and regulations intended to protect the public health, safety and welfare.
- ♦ The applicant must be in good standing and current with the "Waterways Usage Fee" as outlined in the Town of Fairhaven Bylaws, Chapter 145-16.
- ♦ The applicant will be required to sign a hold harmless and indemnification agreement in a form approved by the Town releasing and holding the town harmless for any claims arising from or related to the use of the wharf, and indemnifying the Town for any claims for damage arising from or related to the applicant's use of the wharf.

5.5.3 Terms of Agreement

Upon the submission of an approved application to the Town Administrator, the Board of Selectmen may enter into an agreement with the applicant. At the discretion of the Board of Selectmen an agreement may be seasonal or annual. It shall commence on the day it is signed by the Board of Selectmen and shall continue for the duration of the agreement, or the end of the then current calendar year, whichever is first.

5.5.4 Annual Agreement Change and Renewal Terms

Unless otherwise provided by its terms, each annual agreement shall renew for a period of 12 months commencing January 1 of the following year, subject to the following requirements. No later than December 1 of the current term of the agreement the owner or operator shall provide to the Town Administrator proof of insurance for the following year, a statement by the Harbormaster that he/she has no violations in the Town, and that he/she is in good standing and current with the "Waterways Usage Fee." No later than December 31 of the current term of the agreement the owner or operator shall pay the dockage fees for the following year. Notwithstanding the foregoing, the Town of Fairhaven reserves the right to change the terms of the agreement prior to renewal.

5.5.5 Termination of Agreement

- ◆ The Board of Selectmen reserves the right to terminate the agreement at any time with 30 days written notice to the vessel owner if it determines that termination is in the best interest of the public health, safety or welfare.
- ◆ The Board of Selectmen reserves the right to terminate the agreement, and the Applicant will forfeit all fees paid to the Town of Fairhaven, if the Harbormaster determines that the slip or dockage area has been abandoned. A slip or dockage area shall be considered abandoned by the Harbormaster, if the slip or dockage area has not been used by the applicant for a period of 60 days, not including a period of time necessary for repair or maintenance; or regardless of duration, if the vessel is subject to an agreement for mooring or storage at another facility, other than for repair or maintenance; or regardless of duration, if the applicant is no longer the owner or operator of the vessel.
- ◆ The Town of Fairhaven reserves the right to terminate the agreement immediately if there is reason to believe that the party is acting in a manner or conducting business that is in violation of these regulations or of the terms of the agreement, or of a Town of Fairhaven Bylaw or regulation, or any state or federal regulation or law.

5.5.6 Dockage Fees and Payment Terms

Dockage Fees: Dockage fees shall be set annually by the Board of Selectmen. Vessel owners shall be notified 30 days prior to the automatic renewal period of any fee changes.

Payment: All payments must be paid within 30 days of invoice. No agreement shall renew until the dockage fees for the following year have been paid in full.

6 Dinghy Permits Guidelines

████████ Dinghy Type Vessels

Permitted vessels types are dinghy, canoes, and kayaks.

████████ User Stickers for Dinghy Type Vessels

All dinghy-type vessels stored at either Pease Park Boat Ramp, Sea View Boat Ramp, or Hoppy's Landing shall be stored on the rack provided by the Town with a dinghy permit affixed to the vessel, indicating storage is permitted. Permits may be purchased at the Selectmen's Office during regular business hours.

Annual dinghy permit fees are provided in the Fee Schedule, which is provided in Attachment A. Violations are subject to fines, as established by the Town of Fairhaven.

████████ Waiting List

If the number of applications exceeds the dinghy spaces available, then the Harbormaster shall place the applicant's name, application date, and vessel dimensions upon the appropriate waiting list. For the purposes herein, the Harbormaster shall maintain a waiting list for the assignment of all dinghy spaces.

████████ Renewal of Dinghy Permit

Dinghy permits shall expire on December 31 and must be renewed by December 31 of the following year. A dinghy permit holder must inform the Harbormaster by December 31 of each year of any change in the information pertaining to the dinghy. If the permit is not renewed by December 31st of any year, it will be considered forfeited and the dinghy must be removed within 30 days of notice of forfeiture. If not removed, the Town will remove and Owner will be fined.

████████ Use of Dinghy Racks

Permit holders may utilize locks for securing the dinghy to the rack. The Town does is not responsible for theft, or any loss or damage to the dinghy. **TOWN COUNCIL TO REVIEW**

7 Shellfish

Authority

The following rules and regulations are hereby adopted by authority of MGLs Chapter 130, Section 52 by the Board of Selectmen, Town of Fairhaven. Under the above authority, all persons are prohibited from taking eels, clams, quahogs, oysters, scallops, or seaworms from the coastal waters or flats of the Town of Fairhaven. Permits and licenses are issued subject to the regulations set forth herein.

NOTE: applies to all shellfishing regardless of type of permit or license. Commercial scallop regulations and special regulations covering temporary closings due to pollution, planting, or experimental programs may be established as needed.

Non-Commercial Regulations

AGE LIMIT: Any person over the age of 12 years may obtain a shellfish permit but no child under the age of 12 years shall take shellfish, eels, or seaworms unless accompanied by an adult holding a permit in which case, said adult will be held responsible for all acts of said child.

BASKETS: While engaged in shellfishing all shellfish must be stored in baskets. No basket larger than 1 peck shall be used for non-commercial shellfishing.

BAY SCALLOPS (*Argopecten Irradians /Cape Scallop*): Scallops may be harvested from November 1 to March 31 between the hours of 7 a.m. and 4 p.m., providing the air temperature is above 28 degrees Fahrenheit. Limit one (1) bushel per week. The harvesting of scallops from April 1 to October 31 is prohibited.

CLOSED AREAS: Shellfish shall not be removed from any area closed by the Division of Marine Fisheries (DMF). Written permission shall be made available for inspection upon demand by any police officer, constable, or any other duly authorized officer or agent of the Board of Selectmen. Areas within the rotation system shall be closed from time to time to allow for propagation. Rotation areas will be clearly marked and information on closed areas may be obtained by contacting the Shellfish Warden or the Selectmen's office.

DRY DIGGING: The dry digging of shellfish is prohibited between and including December 8 to March 31.

EELS/SEA WORMS: May be harvested any day throughout the season. A recreational permit entitles the holder to set up 3 eel traps for recreational use. Traps must be marked with permit number and the floats must also have the permit number affixed to it. The taking of eels less than 6 inches is prohibited.

EXHIBIT FOR INSPECTION: All persons taking or carrying away or having in their possession, shellfish of any kind, in boat or container, shall exhibit such shellfish for

inspection upon demand of any Shellfish Warden, Police Officer, or any other duly authorized officer or agent of the Board of Selectmen.

FINES: See Section 7.5 – Penalties

LICENSE DISPLAY: Licenses must be in the possession of the license holders and in plain view on outer clothing or posted on boat or drivers' flag, in visible manner while engaged in shellfishing.

LICENSE/PERMIT RESTRICTIONS: No person holding a commercial license shall be granted a recreational permit and no person holding a recreational permit shall be granted a commercial license.

NON-TRANSFERABLE: Permits are not transferable and may be suspended or revoked for any violation of the rules and regulations, MGLs, Chapter 130, or amendments thereto and subject to rules and regulations of the Town of Fairhaven.

NORTH COVE: North Cove will now be split with the Western side restricted for exclusive use of recreational permit holder only. Commercial shellfishing on this side of cove is prohibited! Commercial shell fishermen may use the Eastern part of North Cove, buoys set into the middle of the cove will set line, along with a sign set on marsh.

OYSTERS (Crassostrea Virginica): Oysters may be harvested from October 1 through March 31.

PERMIT, NON-RESIDENTS: This permit may be sold to any resident of the state, who can show to the satisfaction of the licensing authorities, that he/she is domiciled within the Commonwealth of Massachusetts.

PERMIT, RESIDENT RECREATIONAL: Permits may be issued to a member of a family who proves to the satisfaction of the Shellfish Warden or designee that he/she actually physically resides in, or owns, real estate having an assessed value in the Town of Fairhaven, such as summer residence.

PERMIT, RESIDENT SENIOR CITIZENS: This permit may be issued to those persons that have attained the age of 62 and can show to the satisfaction of the Shellfish Warden or designee that they are domiciled, or own taxable property in the Town of Fairhaven.

PERMIT, VETERAN: This permit may be issued to those persons that can show to the satisfaction of the Shellfish Warden or designee that they have served in the U.S. military.

REQUIRED SHELLFISH CONTAINERS: Recreational, senior citizens, and non-resident permit holders shall be required to utilize a standard 1 peck wire basket while taking quahogs, clams, or oysters. Only 1 basket per permit holder is permitted.

LIMITS: One (1) peck per week per license. (Subject to fines as noted in Section 7.5, under “FINES.”).

SCUBA DIVING: The taking of shellfish by use of scuba and snorkel equipment shall be limited to the following conditions: shellfish permits or license shall be displayed on a standard diver's flag in a visible manner. Shellfish may be harvested by hand only, and the use of any suction and or air tank device, for the purposes of disrupting the sea bottom to expose shellfish shall be prohibited. Divers flags shall be displayed on a boat or surface float, and shall extend a minimum distance of 3 feet from the surface of the water. Divers shall remain in an area within 100 feet of such displayed divers flag, while at or near the surface of the water.

SEED: All seed shellfish shall be broadcast back onto the area in which they were taken, all seed shellfish above the water line shall be covered before leaving an area and all holes filled.

SHELLFISH GAUGES: Gauges for quahog, clam, and oyster measurements shall be used at all times when engaged in shellfishing.

SHELLFISH SIZE LIMITS: Quahogs (*Mercenaria mercenaria*) must have 1-inch hinge measured by gauge. Clams (*Mya arenaria*) shall not be taken when they are less than 2 inches in the longest diameter. Oysters (*Crassostrea virginica*) shall not be taken when they are less than 3 inches in diameter. Scallops shall not be taken unless that have a well-defined annual growth ring. The taking or possession of seed shellfish is prohibited.

SHOVEL/SPADING FORK: The use of a shovel or spading fork for the harvesting of shellfish is prohibited.

SOFT SHELL CLAM (*Mya arenaria* / *Steamer Longneck, Long Clam*): Clams may be harvested the first 7 days of April, May, September, October, November, and December.

SURRENDER: Shellfish permits/licenses may be suspended and surrendered upon demand to Shellfish Wardens, Police Officers, or any other duly authorized officer or agent of the Board of Selectmen. Any person required to surrender their permit/license, may, within 48 hours of such surrender, appeal to the Board of Selectmen in writing for a hearing.

TIME OF USE: In accordance with MGLs Chapter 130 Section 68, no person shall dig, take or carry away shellfish or shells between one-half hour after sunset and one-half hour before sunrise, by any method whatever, from any waters, flats, or creeks licensed under these Regulations.

Commercial Regulations

BAGS: For enforcement reasons, burlap bags are not acceptable, clear onion bags must be used for the transportation of shellfish through Fairhaven waters.

BASKETS: While engaged in shellfishing all shellfish must be stored in baskets. No basket larger than one (1) bushel shall be used while engaged in commercial shellfishing.

CATCH REPORTS: A copy of a commercial license holders Massachusetts catch report must be submitted to the Selectmen's office prior to January 31 of any calendar year.

CLOSED AREAS: Shellfish shall not be removed from any area closed by the DMF. Written permission shall be made available for inspection upon demand by any police officer, constable, or any other duly authorized officer or agent of the Board of Selectmen.

Areas within the rotation system shall be closed from time to time to allow for propagation. Rotation areas will be clearly marked and information on closed areas may be obtained by contacting the Shellfish Warden or the Selectmen's office.

DESIGNATED AREAS: Limits 1 1/2 bushels, of which 1 bushel may be littleneck. All areas outside the rotation system, with the exception of Little Bay will remain the 3-bushel limit. Persons shellfishing commercially within the rotation areas will not be allowed to take their limit in these areas and then proceed to fish outside the rotation area for the remainder of the 3-bushel limit. The rule would act in reverse, whereas a person shellfishing commercially will not be allowed to take part of their limit outside the rotation areas and then proceed to complete the 3-bushel limit from within a rotation area. (Subject to fines as noted in Section 7.5, under "FINES.").

DRY DIGGING: The dry digging of shellfish is prohibited between and including December 8 to March 31.

EAST COVE: No commercial harvest of shellfish from East Cove is permitted.

EELS/SEAWORMS: All traps shall be identified with a Styrofoam buoy marked with the colors assigned at time of license issuance, and shall have the permit number clearly displayed on the buoy. Wooden buoys or plastic bottles are prohibited. Traps shall not be set in any established navigable channel. Eels less than 6 inches shall not be taken. Holders of a commercial eel permit shall be required to submit a state catch report indicating the number of pounds harvested during the previous 12 months.

EXHIBIT FOR INSPECTION: All persons taking or carrying away or having in their possession, shellfish of any kind, in boat or container, shall exhibit such shellfish for inspection upon demand of any Shellfish Warden, Natural Resources Officer, Police Officer, or any other duly authorized officer or agent of the Board of Selectmen.

FINES:

- ◆ 1st offense: Harvesting/Shellfishing in (Posted Closed area) \$200.00 and/or suspension of license.
- ◆ 1st offense: violation of any other written shellfish regulation \$50.00 and/or suspension of license for 30 days.
- ◆ 2nd offense: violation of any written shellfish regulation \$100.00 and/or suspension of license for 60 days.
- ◆ 3rd offense: violation of any written shellfish regulation \$150.00 and/or suspension of license for 90 days.
- ◆ In the event of a 4th offense, or a license holder shows total disregard for these rules and regulations, The Board of Selectmen may revoke and cancel the license or permit for a period of time not to exceed 2 years.

LICENSE DISPLAY: Licenses must be in the possession of the license holders and in plain view on outer clothing or posted on boat or drivers' flag, in visible manner while engaged in shellfishing.

LICENSE/PERMIT RESTRICTIONS: No person holding a commercial license shall be granted a recreational permit and no person holding a recreational permit shall be granted a commercial license.

NON-TRANSFERABLE: Permits are not transferable and may be suspended or revoked by the Board of Selectmen for any violation of the rules and regulations, MGLs, Chapter 130, or amendments thereto and subject to rules and regulations of the Town of Fairhaven.

NORTH COVE: North Cove will now be split with the Western side restricted for exclusive use of recreational permit holder only. Commercial shellfishing on this side of cove is prohibited. Commercial shell fishermen may use the Eastern part of North Cove, buoys set into the middle of the cove will set line, along with a sign set on marsh.

PERMIT, RESIDENT COMMERCIAL: Permits may be issued to a member of a family who proves to the satisfaction of the Shellfish Warden or designee that he/she actually physically resides in, or owns, real estate having an assessed value in the Town of Fairhaven, such as summer residence.

PERMIT, VETERAN: This permit may be issued to those persons that can show to the satisfaction of the Shellfish Warden or designee that they have served in the U.S. military via a DD-214 or Identification that denotes a veteran status.

ROUND COVE: Round Cove will now be split into two areas. The dividing line between the two areas is a line drawn from the most southernmost tip of Bella Vista Island over to Cherry

Stone Road. Commercial shellfishing on the North side of this line is Prohibited. Commercial shell fishermen may use the area from Cherry Stone Road to Bluepoint Road.

SCUBA DIVING: The taking of shellfish by use of scuba and snorkel equipment shall be limited to the following conditions: shellfish permits or license shall be displayed on a standard diver's flag in a visible manner. Shellfish may be harvested by hand only, and the use of any suction and or air tank device, for the purposes of disrupting the sea bottom to expose shellfish shall be prohibited. Divers flags shall be displayed on a boat or surface float, and shall extend a minimum distance of 3 feet from the surface of the water. Divers shall remain in an area within 100 feet of such displayed divers flag, while at or near the surface of the water.

SEED: All seed shellfish shall be broadcast back onto the area in which they were taken, all seed shellfish above the water line shall be covered before leaving an area and all holes filled.

SHELLFISH GAUGES: Gauges for quahog, clam, and oyster measurements shall be used at all times when engaged in shellfishing.

SHELLFISH SIZE LIMITS: Quahogs (*Mercenaria mercenaria*) must have 1-inch hinge measured by gauge. Clams (*Mya arenaria*) shall not be taken when they are less than 2 inches in the longest diameter. Oysters (*Crassostrea virginica*) shall not be taken when they are less than 3 inches in diameter. Scallops shall not be taken unless that have a well-defined annual growth ring. The taking or possession of seed shellfish is prohibited.

SHOVEL/SPADING FORK: The use of a shovel or spading fork for the harvesting of shellfish is prohibited.

TIME OF USE: In accordance with MGLs Chapter 130 Section 68, no person shall dig, take or carry away shellfish or shells between one-half hour after sunset and one-half hour before sunrise, by any method whatever, from any waters, flats, or creeks licensed under these Regulations.

7.3.1 Commercial Scallop Regulations

To take scallop from the waters, within the limits of the Town of Fairhaven, from November 1 to March 31, subject to all the laws of the Commonwealth governing the taking of scallop and regulations made by the Board of Selectmen including the following:

- ◆ These licenses will be issued at the Harbormaster's discretion based on availability of scallops.
- ◆ The fee for this license is in accordance with Fee Schedule (see Attachment A).
- ◆ This license is non-transferable.
- ◆ Residents of Fairhaven exclusively are eligible for "commercial scallop license"

- ◆ Scallops may be harvested from November 1 to March 31 between the hours of 8 a.m. and 4 p.m., Monday through Friday providing the air temperature is above 28 degrees Fahrenheit. Limit 3 bushels per day. The harvesting of scallops from April 1 to October 31 is prohibited.
- ◆ Only adult scallop with a well-defined growth ring may be taken.
- ◆ No drag over 36 inches in width is to be used. One drag ONLY per rope.
- ◆ This license and catch shall, on demand, be shown to any Shellfish Warden, Deputy Shellfish Warden or Harbormaster of the Town or other appropriate officer. This includes the inside of any vessel, bag, box or vehicle perceived or known to be used by license holder.
- ◆ Catch shall be landed at an approved Fairhaven site. Approved sites are Pease Park Boat Ramp, Sea View/Goulart Boat Ramp, Hoppy's Landing Boat Ramp, and Union Wharf. Other docking sites may be approved by the Shellfish Warden. These may include private docks or marinas. Approval must be obtained in writing from the Shellfish Warden.
- ◆ All starfish, winkles, and their egg strings taken while scalloping are to be placed on shore at the high water mark.
- ◆ Quantity of scallops taken daily to be reported to the Harbormaster/Shellfish Warden by calling (508) 979-4023 x124. Leave message with name, date, and amount.
- ◆ Rules are subject to change at Selectmen's discretion.
- ◆ Failure to comply with the above regulations may result in revocation of shellfishing privileges for a period of one year.

7.3.2 Commercial Licenses

Commercial licenses may be sold to individuals who demonstrate to the satisfaction of the Shellfish Warden or designee that the Town of Fairhaven is their permanent place of domicile. Commercial licenses shall be valid only for the period of time that the holder maintains a permanent place of domicile in the Town of Fairhaven. Licenses are valid from April 1 through March 31. A cap or limit of 50 commercial licenses only, shall be issued. Catch reports must be submitted before license will be issued.

All commercial license holders must have a state seller's card and a catch report in hand, before license will be renewed. A state I.D. number will be recorded on all commercial applications.

Any person who holds a Commercial shellfishing license issued by the Town of Fairhaven, must seek permission to land at any location other than waters controlled by the Town of Fairhaven. Permission shall be attained by contacting the Shellfish Warden or Assistant via telephone or in person. Leaving a message on the phone is not acceptable. Leaving from any location that is not

considered waters controlled by Fairhaven will be considered a violation subjecting the license holder to penalties as made available under the rules as approved by the Selectmen. Waters controlled by Fairhaven is described for the purpose of this rule as water extending up to 300 feet from the shores of Fairhaven, MA, Bristol County.

Commercial Shell Fishermen holding dredge boat licenses, as issued by the Town of Fairhaven, must land their catch at an approved Fairhaven site. Approved sites are Pease Park Boat Ramp, Sea View/Goulart Boat Ramp and Hoppy's Landing Boat Ramp. Other docking sites may be approved by the Shellfish Warden. These may include private docks or marinas or the town wharf. Approval must be obtained in writing from the Shellfish Warden.

Rain Schedule

Any area designated as a rain area as described on maps attached to Town of Fairhaven Shellfish Regulations are open only when a "yellow flag" is displayed at two locations. The first location is **Baxter Avenue** off Sconticut Neck Road and governs the west side of the Sconticut Neck rain areas. The second is displayed at **Knollmere Beach** at the end of Weeden Road.

When flags are displayed as red (or no flag at all) all shellfishing is prohibited in the rain areas as shown on the map.

Rainfall amounts in excess of 0.3 inches will cause rain areas to be closed and a red flag displayed. Once red flags are displayed they will fly for 5 consecutive days and then taken down and changed to yellow. If during the 5-day period another rain event occurs and the rainfall is 0.3 inches or more, another 5-day period shall begin. Rainfall is measure at the Sewerage Treatment facility on Arsene Street between 7:15 a.m. and 7:45 a.m. daily if rain is detected.

Fairhaven will coordinate their rainfall amounts with the City of New Bedford between 7:15 a.m. and 7:45 a.m. on rain dates. If either community has 0.3 inches or more of rainfall, the west side of Sconticut Neck will be closed per rain area regulation. If during the day rainfall is significant, flags may be changed if warranted. Shell Fishermen should watch for closures as it helps protect the public.

Due to coordination requirements, flags will be changed by 8:00 a.m. per rain date regulations. It is also understood that any Shell Fishermen fishing from a boat, including divers, shall not leave the dock before 8:00 a.m. This regulation shall be enforced vigorously to ensure all are aware of the flag being displayed for that day.

Rain schedules, as described in the Town of Fairhaven, may be superseded by the Commonwealth of Massachusetts' DMF. If they deem it necessary, they may close the entire or part of the shell fishery area in Fairhaven for a period they deem required.

Penalties

Any commercially licensed Shell Fishermen holding a license issued by the Town of Fairhaven are subject to the following penalties. The Shellfish Warden, at his/her discretion, shall impose any of the following individually, combination, or all as deemed appropriate:

- ◆ Seize part or all of the catch returning it to the waters or disposing of it as the Shellfish Warden deems appropriate.
- ◆ Suspend the license of the violators as determined by the Shellfish Warden or Assistant for a period of time up to the complete season.
- ◆ Issue a fine as described in Fee/Fine Schedule.
- ◆ To do all of the above if deemed appropriate by the Shellfish Warden or Assistant.

All of the above penalties, as described, can be appealed in writing to the Board of Selectmen. Once a written complaint is received, the appellant has 48 hours to submit a written appeal to the Board of Selectmen. The Board of Selectmen may take any action they deem appropriate, including:

- ◆ Order a hearing with the violator of these rules and the Shellfish Warden at which time it may be determined if any changes or modification in regards to action taken by the Shellfish Warden may be warranted.

7.6 Quahog Dredge Boat Regulations

- ◆ All dredge boats must be owner operated, the owner must meet all criteria of being a resident of the Town of Fairhaven. No deck hand will be allowed to run said vessel during dredging operations.
- ◆ No dredge boat shall operate in less than 12 feet of water at a mean low tide.
- ◆ Dredge boats shall only be allowed to operate in all Fairhaven waters from Monday thru Friday of any given week, 8:15 a.m. to 4:00 p.m.
- ◆ No dredge boat shall leave its dock, slip or mooring before 8:15 a.m. to shellfish in the waters of Fairhaven without prior permission from the Shellfish Warden or his/her deputies.
- ◆ No dredge boat shall be allowed to take more than 20 bushels in one day, consisting of no more than 2 bushels of little neck, the rest being a mix of cherries and bulls.
- ◆ No dredge boat shall be allowed any further North of Baxter Avenue, to a line drawn due West from the end of Baxter Ave due to resource management restrictions.
- ◆ No dredge boat shall be allowed North of North point on West Island into the Little Bay, Nasketucket Bay area.
- ◆ No dredge boat shall be allowed into any area that is otherwise closed by the DMF or by the Town of Fairhaven for management purposes.

- ◆ During the months of June 15 through September 15, no dredge boat shall be allowed into any areas on the Western side of Sconticut Neck, no further North of Wilbur's Point.

- ◆ All dredge boats shall remain at least 500 feet off of any Fairhaven shore line.

Any rule or regulation set forth, may change at any time for resource management purposes, with the approval of the Board of Selectmen in the Town of Fairhaven and the Approval of the Director of Massachusetts' DMF.

8 Aquaculture

Prologue

The Town of Fairhaven advocates the orderly development of aquaculture that is complementary to the existing commercial and recreational shellfishery, as well as the continued development of the waterfront management plan. In determining whether to grant a shellfish aquaculture license, the Town is obligated to protect and preserve the existing public fisheries and to minimize the impact on other uses of the marine environment. The size and scope of an aquaculture license shall co-exist with and not diminish the common property commercial and recreational shellfisheries or other existing water related activities.

Authority

The following Regulations concerning aquaculture licenses are adopted by the Town of Fairhaven pursuant to MGLs Chapter 130, Section 57-68. Violation of any of the requirements in these Regulations will subject the holder of a license (“licensee”) to review and possible revocation of a license at the discretion of the Board of Selectmen.

- ◆ Approval of a license shall be subject to all federal, state, and local laws and regulations, as in force and as amended from time to time. Compliance with such laws and regulations is required as a condition of a license. Failure to comply with applicable federal, state, or local regulations shall be cause to revoke a license. The licensee is expected to be familiar with applicable laws and regulations.
- ◆ The Board of Selectmen may declare a moratorium on the granting of licenses at any time when this action is deemed appropriate and in the best interests of the Town. Consideration of a moratorium shall be based upon, but not limited to, scientific data, environmental factors, diseases, over-harvesting, environmental contamination, impact on native stock and species and negative impacts on the use of public waterways where grants are situated.
- ◆ The Board of Selectmen will consider applications for licenses on a first come first serve basis, within the limitations of acceptable land and water space. A list of applicants for licenses in order of date of application shall be kept on file in the Town Hall. The records shall be open for public inspection during Selectmen’s office hours.
- ◆ The Board of Selectmen may restrict the operation of any license to address unacceptable conditions or practices at the site, or amend other restrictions, as deemed necessary in the public interest. Further, the Board of Selectmen reserves the right to amend these Regulations at any time.
- ◆ Aquaculture licenses and operations granted pursuant to these Regulations shall be subject to any rules and regulations promulgated by the DMF, including those concerning the use and scope of predator controls in the intertidal zone, and licenses may be further conditioned by the DMF as they deem necessary and appropriate, including species to be propagated and the source and movement of seed shellfish.

Application Process

8.3.1 Application Submittal

- ◆ Applicants desiring a license shall complete and submit all information and forms required by the Town, and applications shall be submitted under the pains and penalties of perjury. Any information on a license application that is determined to be untruthful before or after approval of any license application shall be grounds for denial and/or forfeiture of a license.
- ◆ The applicant shall provide a plan of the project including all aspects of the management and operations of the project to the Board of Selectmen. The application shall include a map or plan of the proposed project locating the licensed area accurately, and describing the licensed area in metes and bounds. Applicant shall provide a list of all abutting waterfront property owners and associations, and any existing aquaculture license holders, within 500 feet of any point along the perimeter of the proposed licensed area. Additionally, the applicant should include a statement of the proposed benefits to the Town's waters and the overall shellfish population. The application shall include a narrative clearly stating the public benefits expected to result from the proposed project. The public will be notified of public and abutters will receive written notification of hearings to be held by the Fairhaven Marine Resources Committee and the Board of Selectmen concerning the application.
- ◆ The applicant shall also submit any other information as requested by the Board of Selectmen.
- ◆ There shall be a non-refundable application fee including a recording fee, as specified in the Fee Schedule. The application fee must be submitted with the completed application. The application fee is subject to change at the direction of the Board of Selectmen.
- ◆ No application shall be deemed received until all the requirements for submittal of an application have been met. The Town assumes no responsibility or liability for incomplete or missing attachments. Any application that is incomplete for a period of 6 months shall be denied without prejudice to resubmittal.
- ◆ For any renewal without amendments, the licensee need not file a new application.

8.3.2 Public Hearing and Notice

- ◆ The Board of Selectmen shall notify the applicant at least 30 days prior to the public hearing of the time, date, and place of the hearing. Notice of the Public Hearing shall be posted in three or more public places, and published by the applicant in a newspaper with local distribution at least 14 days prior to the date and time of the hearing. The notice of Public Hearing shall state the applicant's name and residence, date, time and place of Public Hearing, the filing date of the application, and the location, area and description of the territory subject to the application. All cost associated with publication are the responsibility of the applicant.

- ◆ Upon receiving a completed application, the Board of Selectmen shall forward copies of the application to the Shellfish Warden, the Harbormaster and the Marine Resources Committee for comment. Written comment shall be returned to the Board of Selectmen within 30 days of being received by the committee. In reviewing the application, the Board of Selectmen may consider, but is not bound by, submitted comments.

8.3.3 Approval Process

- ◆ Upon reviewing the application, and following the public hearing, the Board of Selectmen may provisionally approve the application with or without conditions, or may deny the application. Applications shall be granted or denied in writing within 60 days after receipt of the written application and subject to such terms, conditions and regulations as the Board of Selectmen deems proper.
- ◆ Upon provisional approval of an application by the Board of Selectmen, the applicant shall request an inspection of the licensed area by the DMF for its certification that the granting of a license and operation there under will cause no adverse harm to the shellfish or other natural resources of the Town. Failure of the DMF to so certify shall be deemed a denial of the requested license.
- ◆ Upon certification by the DMF as set forth in Section 8.3.3, B (above), the Board of Selectmen may grant the final license, subject to the provisions of M.G.L. Chapter 130, Section 54 authorizing the declaration of a close season for any or all kinds of shellfish for not more than 3 years in such waters, flats or creeks, not then the subject of a private grant, within the limits of the Town, as the Board of Selectmen deems proper and provided, further, that when any close season, declared as aforesaid, shall have ended, such flats, waters or creeks shall not within 2 years thereafter be licensed for the private cultivation of shellfish.
- ◆ The granting of a license does not relieve the applicant from obtaining any other necessary licenses, approvals, and/or permits prior to conducting operations, including, but not limited to the U.S. Army Corps of Engineers, Massachusetts Department of Environmental Protection, or any division of the same, the Town's Conservation Commission, all as may be applicable.
- ◆ The granting of a license may be conditioned upon the applicant obtaining, and maintaining in good standing, all applicable licenses, approvals and/or permits, which shall be appended to the aquaculture license. A copy all applicable licenses, approvals and/or permits shall be kept on file in the Selectmen's Office. The records shall be open for public inspection during regular Selectmen's office hours.
- ◆ In reviewing an application for a new or amended license; or for license renewal or transfer, the Board of Selectmen shall determine whether the shellfish aquaculture plan proposed by the applicant meets all of the requirements of these Regulations and the waterfront management plan; and whether the plan proposed by the applicant is designed so as to cause no substantial adverse effect on the shellfish or other natural resources of

Town; and will minimize impact on other uses of the marine environment. The Board of Selectmen reserves the right to approve or deny the issuance of an aquaculture license if deemed appropriate and in the best interest of the Town.

Licenses

8.4.1 Existing Licenses

- ◆ Aquaculture licenses in existence before the effective date of these Regulations remain subject to the requirements of the DMF 322 Code of Massachusetts Regulations (CMR) and the provisions of MGLs Chapter 130 as revised; as well as any prior requirements imposed by the Town of Fairhaven at the time the license was granted.
- ◆ Aquaculture licenses in existence before the effective date of these Regulations, and their subsequent renewals, shall be subject to the provisions of these Regulations, with the exception of Sections 8.4.2, 8.5.3, and 8.6.4, A.
- ◆ Any proposed expansion of an aquaculture license, whether issued before or after the effective date of these Regulations, to cover additional areas shall be treated as a new license application and shall be subject to all of the provisions of these Regulations.
- ◆ An aquaculture license which has been expanded pursuant to Section 8.4.1.1, C will be subject to renewal based upon the date of the original issuance of that license, without regard to the expansion of the area subject to that license.

8.4.2 Eligibility

- ◆ The applicant must show proof of continuous residency in the Town of Fairhaven for one year prior to submission of the application. The licensee must continue to reside in the Town of Fairhaven for the term of the license.
- ◆ The applicant shall be 18 years of age or older.
- ◆ The applicant must be able to demonstrate documented evidence of education or experience in shellfish propagation and aquaculture that is acceptable to the Fairhaven Board of Selectmen. This may be supported by a certificate of education from an accredited educational institution, or a letter from a license holder describing the type of work performed and any other information which might be relevant.
- ◆ The applicant shall have no prior shellfishing violations.
- ◆ The applicant must be a U.S. Citizen.

8.4.3 Annual Fee

Refer to Fee Schedule in Attachment A.

8.4.4 Duration and Renewal

- ◆ Licenses granted by the Board of Selectmen are intended to be on a trial basis. The initial license will be for a 2-year period, extendable for a third year following a compulsory 2-year review by the Board of Selectmen. Licensees may request, only after the compulsory review, an extension of the license for the third year. Extension shall be subject to the approval of the Board of Selectmen.
- ◆ The first license renewal shall be for a term of up to 3 years. Subsequent renewals shall be for a term of up to 3 years.
- ◆ The Board of Selectmen shall review each license at the end of its term to ensure a reasonable amount of shellfish has been planted and produced on the licensed area during the preceding year. The Board of Selectmen may waive the minimum production requirements in any year where there is evidence that the failure to meet the minimum standard is due to events beyond the control of the license holder.
- ◆ Following the first renewal, any license granted by the Board of Selectmen may, within two years before the expiration of its then current term, be renewed from the expiration of the then current term for a further term, each term not to exceed 3 years.
- ◆ The provisions applicable to the original license shall, so far as apt, apply to a renewal.
- ◆ Renewals shall require public notice in accordance with the requirements of these regulations. For any renewal without amendments, the licensee need not file a new application.

8.4.5 Transfer of License

- ◆ Licenses are granted to and for the exclusive use of a licensee. Subleasing or sale of the licensed area, a portion of the licensed area or of the license is prohibited. The licensee or those employed by the licensee's aquaculture business are the only parties allowed to harvest and tag shellfish from the permitted aquaculture area.
- ◆ A licensee proposing to transfer the license shall first notify the licensing authority in writing that the licensee no longer wishes to operate the license and requests transfer of the license to a designated recipient. The designated recipient shall thereupon file an application with the Town. The application shall be treated, insofar as applicable, as a new application. The designated recipient must be a qualified person pursuant to Sections 8.4.2, A through 8.4.2, D of these Regulations.

8.4.6 Liability and Insurance Requirements

- ◆ The licensee is required to maintain business liability insurance in the amount of \$2,000,000.00 for General Liability and \$1,000,000.00 for personal injury with the town named as additional insured, and a performance bond sufficient to cover the costs of gear removal and site restoration. The bond shall be a surety bond in the amount determined by the Board of Selectmen. In order to provide reasonable estimate for the value of the

bond, the applicant must provide no less than two written quotations for the removal of the applicants proposed equipment in the event of default or required salvage post storm or other event. The insurance and bond shall be fully executed and in place throughout the period issued with that of the aquaculture license. Documented evidence of the required insurance and bond shall be on file at the Fairhaven Town Hall and shall be a requirement for obtaining final approval by the Board of Selectmen.

- ◆ License renewal shall be granted only if annual catch (shellfish production) reports are submitted in a timely fashion along with bond and insurance information for each licensed year.
- ◆ The licensee shall release and hold harmless and agree to indemnify the Town, its officers, agents and employees, from any injury to, or any claim made, by the licensee or by any other person for damages, of any sort whatsoever, whether considered direct, consequential or special, arising from or related to, the license, the licensed area, the licensee's equipment, the licensee's stock, any other property of the licensee, or the operations of the licensee.

8.4.7 Penalties/Revocation Policies

- A. Subject to the provisions of Section 8.4.7, C (below) for violation of these Regulations, failure by a licensee to comply with the provisions of any other applicable rule of regulation, term, condition, statute, or law, or lack of substantial use of the licensed area, may result in an order to revoke the license.
- B. Revocation of any license pursuant to Section 8.4.7, A (above) shall be preceded by a public hearing held in accordance with the Open Meeting Law. The licensee shall be entitled to be present and have counsel and cross examine any witnesses and present witnesses on his/her behalf.
- C. The penalty for violations of any of these Regulations shall be as follows. The licensee shall have 5 days following written notice to comply with the provisions of these Regulations. After 5 days, if the licensee is still not in compliance, a fine of not more than \$100.00 for each offense shall be issued. After 35 days, if the licensee is still not in compliance, the licensee may be revoked pursuant to the provisions of Sections 8.4.7, A and 8.4.7, B (above). The Board of Selectmen may waive fines or license revocation when there is evidence that the failure to comply within the required time is due to events beyond the control of the licensee.

Licensed Area

8.5.1 Applicable State Regulations

The location of the proposed licensed area must meet all requirements of the DMF 322 CMR, the provisions of MGLs Chapter 130, in addition to all requirements set forth in these Regulations.

8.5.2 Town Review Requirements

- ◆ All proposed license areas are subject to review by the Harbormaster, who shall submit his/her findings to the Board of Selectman.
- ◆ The Board of Selectmen shall refer to the Harbormaster and the Marine Resource Advisory Committee for their review and recommendations. The Marine Resource Advisory Committee shall submit its recommendation to the Board of Selectman within 45 days of referral to them. Failure to do so will be deemed a non-response or neutral recommendation.
- ◆ The Board of Selectman shall be the final license issuer.
- ◆ Based upon the findings of the Harbormaster and such other information it shall choose to consider, the Marine Resources Committee shall make a recommendation to the Board of Selectmen regarding the suitability of the proposed licensed area.

8.5.3 Total Size

- ◆ A licensed area shall be determined when the license is issued. Licensed areas shall not exceed 2 acres, unless subject to a license granted before the effective date of these Regulations.
- ◆ A license holder may apply for an extension to a licensed area or an additional licensed area after completing the third year of operation under the original license. The license holder must have a proven record of properly managing the original licensed area, compliance with all applicable Town and State laws, and a record of successfully planting, producing and marketing shellfish, to qualify for an expansion to a licensed area, or an additional licensed area.

Operations

8.6.1 Time of Use

In accordance with MGLs Chapter 130 Section 68, no person shall dig, take or carry away shellfish or shells between one-half hour after sunset and one-half hour before sunrise, by any method whatever, from any waters, flats, or creeks licensed under these Regulations. A violation of this section may result in revocation of the license and seizure of all shellfish remaining on the licensed area.

8.6.2 Equipment Type

- ◆ The Board of Selectmen may restrict the type of equipment (floating, submerged or bottom-mounted cages, bags, buoys, or stakes) used in the licensed area.
- ◆ Any changes to the type of equipment used in the licensed area shall be subject to prior approval by the Harbormaster.

8.6.3 Equipment Markings

- ♦ All cages, floats, etc. must be clearly marked with an identification tag.
- ♦ All unusable gear shall be removed from a licensed area and either disposed of properly or moved to an appropriate site.
- A. If gear, tackle, or other equipment leaves the licensed area for any reason and is deposited on the shore, beaches, or flats, whether public or private, a licensee must recover the equipment within 15 days from the time of its deposit; provided, that a licensee in so doing shall not commit any unreasonable, unnecessary, or wanton injury to the property where the equipment is deposited. In the event a licensee does not recover the equipment within 15 days, the Town may recover the equipment, at the expense of the licensee.
- ♦ When a license is terminated for any reason, the prior licensee shall be required to remove all gear, tackle or other equipment from the licensed area within 35 days of the license termination date. Any and all gear, tackle or other equipment not removed within 35 days may be removed by the Town at the expense of the prior licensee.

8.6.4 Transplanting and Harvesting of Shellfish Product

- ♦ No person shall plant, transplant, sell or have in their possession seed shellfish, without first obtaining a state seed permit or an aquaculture permit, or be listed on said seed permit.
- ♦ No person shall transplant seed shellfish, seed stock, or stock from any public fisheries within the Town into a licensed area for purposes of stocking licensed aquaculture areas with such seed or stock.
- ♦ All seed shellfish transferred to the licensed area shall be obtained from hatcheries certified by the DMF and approved by the Board of Selectmen on the license.
- ♦ The licensee shall not remove or introduce any seed shellfish from or to any waterway other than from the licensed area.
- ♦ Licensees are subject to the provisions of regulations of the Department of Public Health C.533.000: FISH AND FISHERY PRODUCTS. A violation of the regulations of the Department of Public Health shall be considered a violation of the conditions of a license issued under these regulations.

Monitoring

The Shellfish Warden or assistants shall have authority to inspect the licensed area at any time, and said inspection may include any and all containers on the site. In the event that the Shellfish Warden or assistants have reason to believe that inspection of the contents of any or all containers on the site is in the best interest of the Town, the Shellfish Warden or assistant shall contact the licensee by telephone or by leaving a notice at the address of the licensee indicated on the license, advising the licensee that the Town intends to inspect the contents of containers

on the licensed area and further inviting the licensee to be present at the time of the inspection. In the event that the Shellfish Warden or assistant does not receive a response from the licensee within 48 hours of notification by phone or written notice, the inspection of containers may be conducted without the presence of the licensee.

The Town reserves the right at any time to obtain samples of any shellfish from a licensed area for the purpose of certified testing for disease and in order to assure that the activities in the licensed area are in accordance with the requirements of these Regulations.

Reporting

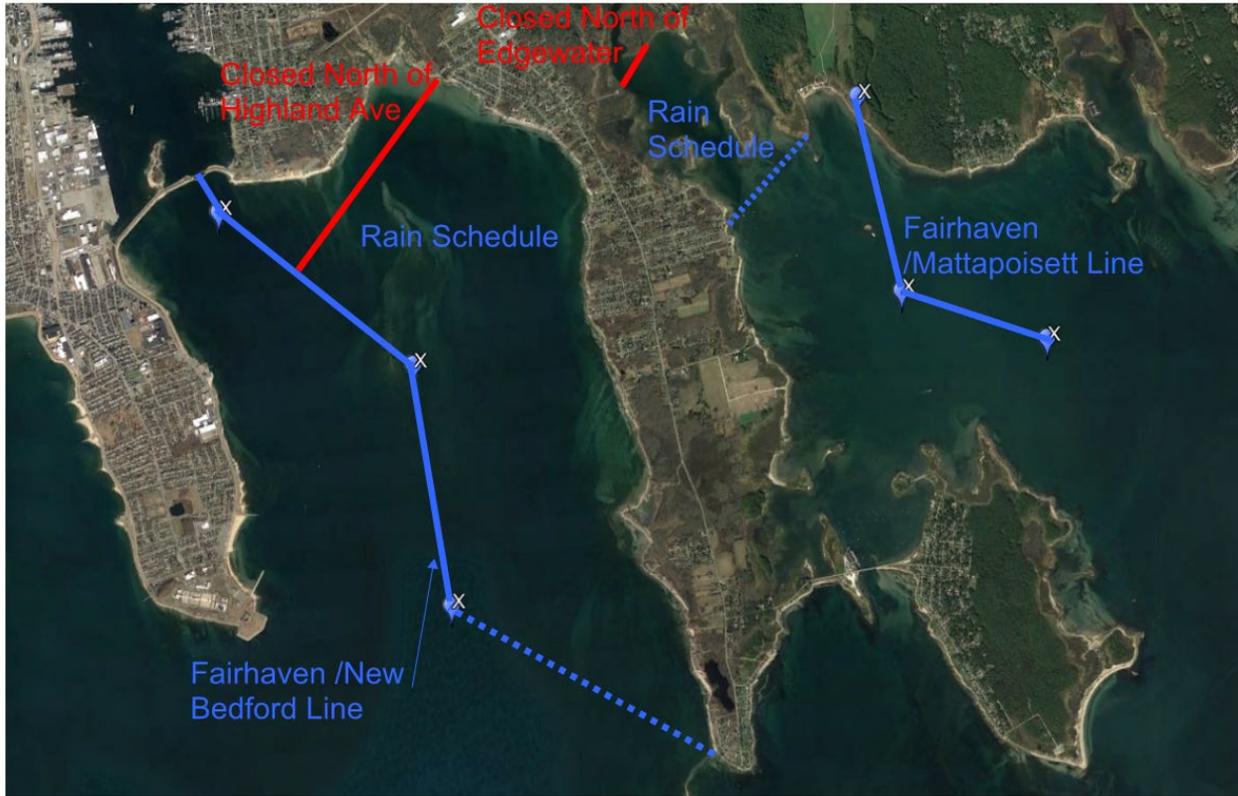
In accordance with MGLs Chapter 130 Section 65, every licensee or transferee of a license shall submit on oath on or before February 28 in the year following the period of operation, each year to the Board of Selectmen a report of the total number of each kind of shellfish planted, produced or marketed during the preceding year upon or from such licensed area, and an estimate of the total number of each kind of shellfish at the time of such report planted or growing thereon. The Board of Selectmen may specify a reasonable yearly market value to be produced by each shellfish license. Failure of the licensed shellfish project to meet such a value for any 3 consecutive years thereafter may result in a forfeit of the shellfish aquaculture license and licensed area.

Licensees are subject to the provisions of the regulations of the DMF 322 CMR 15.08 (4). A violation of the regulations of the DMF shall be considered a violation of the conditions of a license issued under these regulations.

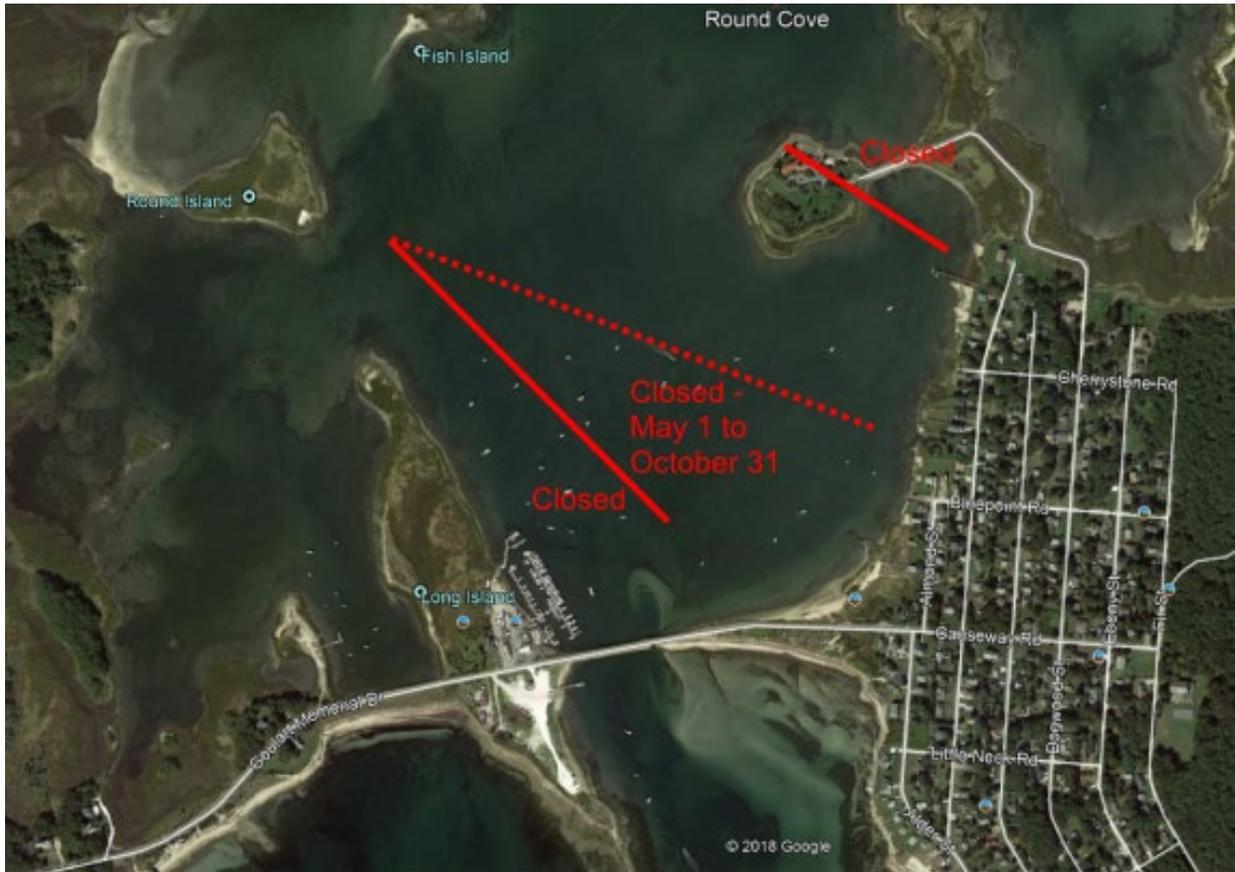
9 Shellfish Area Maps

The following shellfish area maps are for illustrative purposes. To view the color versions of the maps, please go to the Harbormaster's Web Page on the Town of Fairhaven's Web Site: www.fairhaven-ma.gov

9.1.1.1 Town Limits, Rain Schedule Map



9.1.1.2 Round Cove Map



9.1.1.3 Wilbur's Point Map



9.1.1.4 Inner and Outer Harbor Map



10 Parking Sticker Rules & Regulations

Required fees are included in the Fee Schedule, which is provided in Attachment A.

- ◆ Pease Park, Middle St. (Jim Holm's Ramp) and Sea View (Manny Goulart Ramp) stickers are interchangeable and may be used at either ramp.
- ◆ Hoppy's Landing stickers can only be used at Hoppy's Landing. They cannot be used at other ramps. Boaters with a valid Seaview/Pease Boat Ramp Sticker may use Hoppy's Landing in times of extreme high/low tides and emergencies when given permission by the Harbormaster.
- ◆ All stickers are to be permanently affixed to the rear of the vehicle on the driver's side rear window or rear bumper driver's side visible from the outside from the rear of the vehicle. Sticker shall not be affixed to trailers.
- ◆ All stickers shall have the vehicle registration marked on the sticker.
- ◆ All stickers will be issued to a specific vehicle and not transferable to another vehicle unless the registration moves with them to another vehicle.

◆ Union Wharf – WORK IN PROGRESS

- ▶ We are working with the Fairhaven Police Department to firm up some rules and regulations regarding the parking lot. This is a work in progress. Once we reline the lot and get the proper signage we can write up the regulations.
- ▶ There will be designated spots for the Lobster Boats, the Large Boats, the Transient Dock and General Parking.
- ▶ The Lobster Boats will be assigned a parking spot. The cost of that parking spot is included in the yearly fee.
- ▶ The Large Boats will be able to acquire up to two permits from the Town Hall to use in the vehicles they see fit. The permit will have an expiration date on it and must be kept on the dash board of each vehicle.

11 Boat Ramps

Fueling of vessels at any boat ramp is prohibited with the exception of Union Wharf. Fueling of vessels at Union Wharf shall be prohibited, except by companies or individuals that have been permitted by the Department of Fire Services and that comply with all state and federal regulations. Any company or individual must meet the requirements of 527 CMR 42.9.

12 Hoppy's Landing Lease Areas

Areas may be available for lease for the purpose of storage of commercial lobster gear, lobster pots, lobster tackle and fishing equipment. A lease agreement must be executed with the Town of Fairhaven to utilize the area.

13 House Boat Regulations

"Houseboat" means a building constructed on a raft, barge, or hull that is used primarily for single or multiple-family habitation.

The Town of Fairhaven, through the office of the Harbormaster and the duly appointed agents of the Town of Fairhaven acting as the Harbormaster and/or the Assistant Harbormaster, prohibit the mooring of any vessel that is after the determination of the Harbormaster it is a Houseboat to be placed on a mooring within the waters of Fairhaven, MA.

Houseboats as determined by the Harbormaster as described above are not permitted to be at a mooring in the Town of Fairhaven. The disposal of human waste is not allowed within the waters of Fairhaven. Portable toilets, and or any other device onboard are not considered adequate to properly hold and allow for proper disposal of human waste. The Town does not have the ability or system that can accurately track disposal of human waste brought ashore for proper disposal. Houseboats at moorings cannot be pumped out by the Town of Fairhaven's Clean Vessel Act per the grant the town operates under.

Vessels that are determined to be Houseboats by the Harbormaster and moor in violation of this regulation are subject to the following.

- ◆ After reasonable attempts to contact the owner by telephone or U. S. Mail may be removed at the direction of the Harbormaster at the cost of the owner.
- ◆ Cost will include all towing and storage charges that may be incurred to do so. All charges are payable to the tow company which will hold the vessel until payments are made.

This regulation is applicable to both privately and commercially owned moorings.

Attachment A: Fee Schedule

TYPE	FEE
Aquaculture	
Application Fee	\$100.00 (includes \$1.00 recording fee)
Annual Fee	\$200.00 per acre
Dinghy Rack Fee	
Dinghy Type Vessel:	\$35.00 each
Kayak, Canoe, Inflatable	(Pease Park Boat Ramp, Seaview Boat Ramp, Hoppy's, Landing)
Dinghy Permit Expiration Fee (unclaimed dinghy)	\$50.00
Hoppy's Storage Facility	
Annual Fee	\$250.00
Mooring Fees	
Application Fee	\$10.00
Annual Fee	30.00
Non-Use Fee	\$30.00
Commercial Annual Fee	\$100.00
Parking Permits	
Jim Holmes Boat Ramp at Pease Park & Seaview Avenue Boat Ramps	\$7.00 Daily at Ramps \$50.00 Yearly Sticker
Hoppy's Landing	\$7.00 Daily at Ramps \$50.00 Yearly Sticker
Shellfish Licenses:	
Resident - Non Commercial	\$30.00
Resident – Commercial	\$260.00
Resident - Senior (62 & older)	No Charge
Resident - Veteran	No Charge
Resident - Scallop	\$200.00

TYPE	FEE
Non Resident - Non Commercial	\$135.00
Non Resident - Veteran	\$30.00
Native American	No Charge
Union Wharf:	
*Large Boat Side	
One time Deposit	\$750.00
Daily Rate	\$25.00
*North Side	
Annual Fee	\$1,500.00
*Small Boat Basin	
Annual Fee	\$2,095.50
*Short Term Pay - South Side	
Hourly Rate	\$25.00
*Waiting List Fee	
	\$25.00
Waterway User Fee	
Resident	\$1.00 per foot of length of boat
Non-Resident	\$4.00 per foot of length of boat