

## 2.0 Minimum Standards for the Keeping of Animals

[Regulation Adopted March 12, 2019]

### 2.1 Purpose

The purpose of this regulation is to provide minimum standards for the keeping of animals in the Town by enabling residents to have the opportunity to participate in the growing national trend for responsible, small scale agricultural protection while protecting public health, safety and welfare in the Town.

### 2.2 Definitions

*Abutter:* Owners of land or property physically abutting the applicant's property where animals are kept. A person will only qualify as an abutter, for the purpose of this regulation, if he or she owns abutting land or property.

*Animal:* All animals and livestock which are kept as domesticated animals but excluding the following: household pets as defined herein; research laboratory animals otherwise regulated; and non-exempt wild animals as regulated by M.G.L. Chapter 131, Section 23 and 321 CMR 9.00.

*Animal Structure:* Any structure used to house, shelter or contain livestock and animals.

*Applicant:* A person who applies for a permit to keep one or more animals pursuant to this regulation.

*Agent:* Any duly authorized Agent of the Board of Health as specified under M.G.L., c. 111, sec 30, including but not limited to the Director of Public Health, the Associate Health Inspector, the Health Agent, and the Environmental Engineer.

*Best Management Practices:* Methods that are generally recognized by the Massachusetts Department of Agriculture (MDAR) to be an effective and practical means for the housing and keeping of animals (Massachusetts Department of Agricultural Resources Division of Animal Health's Generally Acceptable Agricultural Practices), including but not limited to those practices enumerated in Article V, Section 2.5 (C) of these regulations.

*Board or Health or "the Board":* The Burlington Board of Health and/or its designated Agent(s). Where this regulation provides for the Board's review or determination of a matter, or the conduct of a public hearing, only the Board itself may conduct or issue such review, determination or public hearing, unless the Board has specifically authorized a designated Agent to take such action.

*Cockerel:* Young male chicken.

*Corral:* Any pen or enclosure for confining one or more animals.

*Domesticated animals:* Animals of a species of vertebrates that have been domesticated by humans to live and breed in a tame condition and depend on humankind for survival.

Domesticated animals shall include, but not be limited to any equine or bovine animal, goat, sheep, swine, dog, cat, poultry or other domesticated beast or bird.

*Dwelling:* Any building, structure, or shelter used or intended for human habitation.

*Facility:* The total accommodations to be used for the keeping and care of one or more animals, including but not limited to land and any accessory or animal structure such as, but not limited to a barn and/or stable.

*Fencing:* Enclosure material installed for privacy or livestock and/or animal containment.

*Feed Management Plan:* A plan for the keeping and management of feed.

*Household pets:* Animals that are primarily kept indoors for non-agricultural purposes, including but not limited to dogs, cats, ferrets, pot-bellied pigs, fish, domesticated or exotic birds, guinea pigs, hamsters, and mice.

*Keeping of Animals Permit or "Permit":* A permit issued by the Board of Health for the keeping of one or more animals in accordance with the provisions of this regulation.

*Livestock:* Animals kept for agricultural purposes, including but not limited to cattle, goats, sheep, swine, equines, camelids, poultry and other fowl with the exception of roosters and cockerels.

*Manure Management Plan (MMP):* A plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization and removal of manure.

*Permit holder:* Any person who has met the conditions of this regulation and has received a permit issued by the Board of Health to keep animals.

*Person:* Every individual, partnership, corporation, firm, association, group, or other entity including a city, town, county, or other governmental unit, owning property or carrying on an activity regulated by this regulation.

*Pest Management Plan:* A plan, which adequately defines the measures that shall be taken by the owner to minimize the presence of rodents, insects and pests, and to minimize the creation of odors and other nuisances.

*Rooster:* An adult male chicken.

*Stable:* An accessory building or structure used for the shelter and/or feeding of one or more animals.

*Stall:* A compartment in a stable used for the keeping of one or more animals.

*Usable area:* Land area suitable for the raising of animals such as pastures, fields and wooded uplands. This area does not include wetlands, swellings, or any other area(s) as may be restricted by town, state or federal law, regulations or guidelines.

*Wetlands:* Land area or surface area so defined by the Wetlands Protection Act, Massachusetts General Law, Chapter 131, Section 40 and regulations promulgated pursuant to 310 C.M.R §10.00 or by the Town Bylaws and Burlington Conservation Commission regulations, or pursuant to Section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1341.

*Wild and exotic animals:* Any animal not normally found or kept as a domesticated animal, and which require a permit to keep issued by either a Federal or State wildlife agency, including but not limited to deer, poisonous reptiles, alligators, monkeys, lions and tigers as defined as non-domesticated by M.G.L., Chapter 131, Section 23 and 321 CMR 9.00.

### **2.3 Applicability**

A permit is required for anyone keeping one or more animals as defined in this regulation, except on commercial farms which meet the requirements of M.G.L. ch.40 §3 and/or M.G.L. ch.128 §1A. Household pets are exempt from this regulation with the exception that the Board of Health may impose a permit requirement in situations in which animals are kept in unreasonable numbers or in conditions that may result in a public nuisance or recognized hazard to the health and welfare of the Town.

## 2.4 Permit Requirements

- A. The Board of Health, under its discretion, may limit the number of animals allowed under the permit.
- B. At least fourteen days prior to the first session of the Board of Health public hearing on the application, the Board of Health will send notice of the public hearing via certified mail to abutters. The notice will include the date, time, and location of the public hearing.
- C. Application(s) for a permit shall be submitted on a form supplied by the Board of Health for each location where animals are kept in the Town. The permit application shall be accompanied by the following information, and will be deemed incomplete if any information or fee is missing.
  - a. Name, mailing address, phone number and email of all owners of the property, including an emergency contact number; and
  - b. Location—street address of the premises to be used; and
  - c. Maximum number and species of animals to be kept; and
  - d. A plot plan, with dimensions of the area where animals will be kept. Also required on the plot plan are the locations of the primary residence, structure(s) (including fences), abutting structures(s), corrals, septic systems, private wells and wetlands. A hand-drawn plot plan is acceptable so long as it is determined in the Board of Health's discretion to be of sufficient detail and quality to allow for Board of Health review; and
  - e. A written management plan for the following:
    - i. Manure management;
    - ii. Storage of feed;
    - iii. Pest management; and
  - f. Application fees as indicated in Article I, Section 4.0 of these regulations.
- D. The applicant must demonstrate that the issuance of a permit shall not be detrimental in any way to the public welfare and would not endanger the health or safety of the municipality, and that all applicable requirements of this regulation have been satisfied. The Board of Health may impose conditions, safeguards and other limitations on a permit consistent with the public health, safety and welfare.
- E. It shall be a condition of any permit issued under this regulation that the permit holder shall comply with all applicable federal, state and local laws, regulations and other requirements.
- F. The permit shall not be transferable to other animals, or assignable or transferable for the use of other persons or the use of other premises.

- G. The permit shall expire one year after its issuance, unless sooner revoked or suspended by the Board of Health after a hearing.
- H. If the permit holder intends to increase the number of animals or change in species of animals to be kept prior to the end of the permit year, the permit holder must notify the Board of Health, and the Board of Health may require a public hearing if the Board of Health believes that the increase will materially change the application upon which the permit is based.
- I. A permit holder must apply for a renewal of the permit at least thirty (30) days prior to the expiration of the permit. Unless a public hearing otherwise is required under this regulation, no public hearing is required with respect to an application for a renewal of the permit. However, if a permit holder fails to timely apply for a renewal of the permit, the permit holder's application shall be treated as an application for a new permit and shall require a public hearing.
- J. If the permit holder is not the owner of the property, documentation must be provided indicating that the Property Owner consents to the application for the keeping of animals on the property.
- K. Permits issued prior to the effective date of this regulation are valid. All renewal of permits after the effective date of this regulation shall be subject to this regulation.

## **2.5 General Requirements**

- A. All structures must comply with the applicable setback requirements for the zoning district in which such structures are located as set forth in the Town Zoning Bylaws and applicable MA building code requirements, notwithstanding any protection accorded by M.G.L. ch.40 §3 and the Wetlands Protection Act, 310 C.M.R. §10.00.
- B. All permitted animals must be confined to the property for which a permit is granted unless the permit holder has documented in writing to the satisfaction of the Board of Health, including obtaining any necessary permissions, arrangements for such animals to be kept elsewhere (*e.g.*, for grazing, pest control, etc.).
- C. Permit holders shall integrate best management practices for the housing and keeping of animals. These include but are not limited to:
  - a. Providing adequate housing with ventilation and room to move about; and
  - b. Ensuring bedding is dry and absorbent (*e.g.*, soft wood shavings, corn cobs, peanut shells, or plant based tree free bedding), and removing saturated areas of litter such as under the water source or feeder, and wet, caked manure, as needed; and
  - c. Composting waste away from animals to prevent exposure to ammonia, mold, and/or toxins; and
  - d. Fencing the yard if animals roam free to prevent them from wandering onto neighboring property and to keep out potential predators; and

- e. Providing water and a source of clean, dry food at all times; and
- f. Keeping the housing area free from trash, debris, and old or soiled food to prevent pest activity; and
- g. Keeping up to date with all vaccinations recommended for specific animals (e.g., Eastern Equine Encephalitis vaccination for horses).

D. No person shall erect, occupy, use, rebuild, reconstruct, alter or structurally change a stable, accessory structure or corral intended for housing or confining of animals without submitting an initial or revised plan to the Board of Health, and obtaining the Board of Health's express approval thereof.

## **2.6 Prohibitions**

The keeping of roosters, cockerels and non-exempt wild animals, in accordance with Massachusetts General Law Chapter 131, Section 23 is prohibited within the Town.

## **2.7 Penalties**

Whoever violates any provision of this regulation may be subject to penalties as follows:

- A. If a designated Agent of the Board of Health determines that a party has violated this regulation, such Agent may issue a written Order ("Order") to the person or persons owning or having control of the premises and to the permit holder and/or party (if different from the owner or controller of the premises) to correct the offending deficiencies within a reasonable specified time; and/or
- B. A non-criminal disposition process as provided in M.G.L. c.40, § 21D and the Town's non-criminal disposition bylaw. If non-criminal disposition is elected, then any person who violates any provision of this bylaw shall, in accordance with the Town General Bylaws Article 1, Section 4.0, be subject to a penalty in the amount of fifty dollars (\$50.00) per day for each day of violation. Each day or portion thereof shall constitute a separate offense; and/or
- C. The Board of Health may suspend or revoke any permit issued pursuant to this regulation for any violation of this regulation. Such revocation or suspension may take place after a hearing held by the Board of Health of which the permit holder is given fourteen (14) days written notice. Arrangements for re-homing the animals shall accompany any suspension, revocation, or denial of a permit; and/or
- D. In the alternative, or in addition to the above, this regulation may be enforced through any other means available at law as deemed appropriate by the Board of Health, including, but not limited to, civil enforcement for injunctive relief.

## **2.8 Hearing**

Any person that has received an Order issued pursuant to Article V, Section 2.7 (A) of this regulation may request a hearing before the Board of Health. Such request shall be in writing and shall be submitted to the office of the Board of Health in writing so as to be received by the Board of Health within ten (10) days after receipt of the Order. After said hearing, the Board of Health

may affirm, modify or rescind said Order or take any other action it deems warranted and appropriate.

### **2.9 Variances**

Upon written application and public hearing, the Board of Health may in its sole discretion vary the application of any provision of this regulation with respect to any particular case when it determines that the enforcement thereof would do manifest injustice; provided that the decision of the Board of Health shall not conflict with the spirit of this regulation or any minimum standards required by Federal or State law; and provided that the applicant demonstrates to the reasonable satisfaction of the Board of Health that a sufficiently equivalent level of protection can be achieved. Any variance granted by the Board of Health shall be in writing and shall be subject to such conditions as the Board of Health deems appropriate.