

DRAFT-MINIMUM STANDARDS FOR THE KEEPING OF ANIMALS

TOWN OF BEDFORD
BOARD OF HEALTH
(Effective November 1, 2016)

1.0 AUTHORITY

This regulation is promulgated pursuant to the authority granted to the Bedford Board of Health by Massachusetts General Laws Chapter 111, Section 31 that "Boards of Health may make reasonable health regulations."

2.0 PURPOSE

This regulation has been promulgated to provide minimum standards for the protection of the public health, animals, and the environment and prevention of public health nuisance conditions. The following rules, requirements, and standards in this regulation are deemed by the Board of Health to be generally adequate to protect the public health, comfort, and the environment, in the interests of present and future citizens of Bedford. This regulation aligns with the December 2013 Bedford Comprehensive Plan Land Use vision for Residential Neighborhoods, by enabling Bedford residents to have the opportunity to participate in the growing national trend for small scale agricultural production.

3.0 DEFINITIONS

Unless otherwise noted below, the following terms shall have the following definitions throughout this regulation.

✓ Abutter: owners of the abutting land or property within three hundred (300) feet of the Applicant's property line. A person will only qualify as an abutter for the purpose of this regulation if he or she possesses an ownership interest in the abutting land or property.

Accessory Structure: a structure subordinate to the principal building on the same lot and serving an animal related use.

Acre: for the purposes of this regulation, a tract of land consisting of 40,000 square feet in area.

✓ Animal: all animals, including fowl, which are harbored as domesticated animals, excluding: Household Pets, otherwise regulated research laboratory animals and non-exempt Wild Animals as defined by Massachusetts General Law chapter 131, section 23 and 319 CMR 9.0.

✓ Applicant: a person who applies for a permit to keep one or more Animals under this regulation.

✓ Board of Health or "the Board": the Bedford Board of Health and/or its agents.

✓ Cockerel: young male chicken.

✓ Coop: a structure for the keeping or housing of poultry, pigeons or other types of fowl.

✓ Corral: any pen or enclosure for confining one or more Animals.

Dwelling: any building or shelter used or intended for human habitation.

✓ Facility: the total accommodations to be used for the keeping and care of animals, including but not limited to land and any accessory structure such as: a Stable, Small Animal Shelter, corral, pen, corral, loft and coop.

Farm: a parcel of land at least two real acres (87,120 square feet) in size, the owner(s)/operator(s) of which can demonstrate to the Board that they have the expertise and experience to competently conduct animal care, propagation and/or raising operations. Commercial enterprise?

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Fowl: as used in this regulation shall mean all members of the bird family, and shall include chickens, capons, hens, turkeys, pigeons, peafowl, guinea fowl, ducks, swans, and geese (other than wild species), whether used for food, show or hunted as game. For the purposes of this regulation, the definition of "fowl" shall not include roosters or cockerels.

Henhouse or coop: a structure designed to house chickens.

~~Horse: any solid hoofed animal including, but not limited to, a horse, donkey, pony or mule.~~

Household Pets: animals that are normally kept inside an owner's residential dwelling or commercial building including but not limited to dogs, cats, ferrets, fish, domesticated or exotic birds, small, non-poisonous reptiles and guinea pigs, hamsters and mice.

~~Impervious Material: soils having a percolation rate greater than twenty (20) minutes per inch drop, and including but not limited to ledge, hardpan, clay, peat, loam, and organic matter.~~

✓ Keeping of Animals Permit or "Permit": refers to a permit issued for the keeping or housing of one or more Animals in accordance with the provisions of this regulation.

Large Animals: Animals that weigh 20 pounds or more.

Lot: A contiguous area of land in one ownership, with definite boundaries, used or available for use, as the site of one or more buildings or accessory structures, including open spaces required by this regulation. "Lot" includes the words "plot" or "parcel."

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

Noise: sound of sufficient intensity and/or duration as to cause or contribute to a Nuisance Condition.

Nuisance: shall mean any condition, in the opinion of the Board of Health, that adversely affects the public health, comfort and/or the environment including, but not limited to noise, offensive odor, attraction or breeding of flies or insects, an environment supporting growth of vermin, presence of rodents, liquid effluent or runoff, or any other condition having public health or environmental significance. This definition shall include the construction of the term "nuisance" under M.G.L. c. 111 sec. 125A.

Owner: every person who alone, or jointly, or severally with others (a) has legal title to any dwelling or dwelling unit, or (b) has care, charge, or control of any dwelling unit as agent, executor, executrix, administrator, administratrix, trustee, lessee, or guardian of the estate of the holder of legal title. Each such person thus representing the holder of legal title is bound to comply with the provisions of this regulation as if he/she were the owner.

Pen or run: a completely enclosed outdoor area designed to confine hens or other animals, and/or to provide protection from predators.

✓ 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, or group, including a city, town, county, or other governmental unit, owning property or carrying on an activity regulated by this regulation.

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

Pigeons: member of the Columbidea family of birds that include 'racing', 'fancy', and 'sporting' pigeons.

Poultry: refers to domesticated or semi-domesticated birds including chickens, ordinarily kept for food or eggs.

✓ Rooster: male chicken.

Runoff: water from natural or unnatural sources that flows over the surface of the ground.

Small Animals: Any animal less than 20 pounds.

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Small Animal Shelter: Any building, enclosure, premises or portion thereof where more than five regulated small animals (e.g., fowl and rabbits) under 20 pounds are kept.

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✓ Stable: Any building, enclosure, premises or portion thereof where regulated animals of more than 20 pounds, other than household pets, are kept.

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

~~Swamp: land which is wet and/or spongy during a major portion of the year.~~

~~Unsanitary Conditions: the Facility's state of being or condition which, in the judgment of the Board of Health, are conducive to or results in, breeding of flies, creation of offensive odors, rodent infestation, liquid effluent, runoff, and/or noise, in such concentrations and/or such duration as to cause a nuisance, be injurious, may be considered potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.~~

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

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~~Vermis: any of various insects, bugs, or small animals regarded as objectionable because of their destructive or disease-carrying nature including but not limited to flies, mosquitoes, lice, and rats.~~

✓ Wetland: As defined by Massachusetts Wetland Protection Act and confirmed by the Bedford Conservation Commission. *added different language in def.*

✓ Wild Animal: any animal not normally found or kept as a domesticated animal, including mammals, birds, reptiles, amphibians or other animals as defined as non-domesticated by Massachusetts General Law chapter 131, section 23 and 319 CMR 9.0. Non-exempt Wild Animals require a license or permit from the MA Division of Fish and Wildlife and are not allowed to be kept in Bedford, in accordance with this regulation. *W/Ds*

~~Young: Any animal that was born to an Animal located in Bedford and is still nursing. Age varies according to species.~~

4.0 GENERAL REQUIREMENTS

No person shall keep or allow to be kept within the limits of the Town in any building, or any premises on which he may be the owner, lessee, tenant, or occupant, any Large Animal or more than five (5) Small Animals, without a written permit from the Board of Health.

✓ 4.1 The following animals are prohibited within the Town of Bedford: Roosters, Cockerels and non-exempt Wild Animals, in accordance with MGL c. 131 s.23. *now 5.10*

✓ 4.2 In accordance with the Bedford Zoning Bylaws, front yard use for any accessory structure that is part of the facility is prohibited. *now 5.10*

GAAP = Generally Acceptable Agricultural Practices

- ✓ 4.3 In non-residential zoning districts as are defined by the Bedford Zoning Bylaws and depicted on the Bedford Zoning Map, where the principal use of the land, buildings or structures is of a commercial use as are defined by the Bedford Zoning Bylaws and depicted on the Bedford Zoning Map, no person shall keep an Animal as defined by this regulation.
- 4.4 This regulation shall not apply to a parcel of land defined herein as a Farm.
- 4.5 Animals must be treated in a humane manner at all times, including but not limited to, access to fresh food, water and protection from the elements as needed.
- 4.6 All facilities for the keeping of animals shall be securely fenced so as to prevent the escape of animals therefrom. At no time will Animals be allowed to roam unattended.
- 4.7 Property barriers such as fencing or closely planted trees shall be installed, or other appropriate measures taken, on areas of lots where it is necessary to discourage trespass or unattended encounters with animals kept under this regulation or on areas of lots where the location of the facility will ordinarily interfere with the healthy and safe enjoyment of an abutter's property.
- 4.8 An adequate supply of water shall be available at or near the facility for feeding and cleaning of animals.
- 4.9 The permit holder must reside on the property where the animals are stabled/kept.
- 4.10 If the permit holder is not the owner of the property, documentation must be provided indicating that the property owner permits the keeping of animals on his/her property.
- 4.11 All permitted animals must be confined to their permitted property unless the permit holder has documented to the Board in writing, including any necessary permissions, any arrangements for animals to be temporarily kept elsewhere in Bedford (i.e. for grazing, pest control, etc.).

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5.0 CONSTRUCTION AND CONSTRUCTION CHANGES

Any person who proposes to remodel an existing building or a portion thereof, or to construct a new building which is to be used in whole or in part as a facility for the keeping of animals shall, prior to such construction or remodeling, submit plans to the Board of Health for approval as

well as to other Town officials for whom a permit, approval or license is required, such as but not limited to the Town's Inspector of Buildings, Conservation Administrator and Zoning Officer, as applicable.

- a) Such construction or remodeling shall proceed without unreasonable delay following Board of Health and Inspector of Buildings approval and shall be completed within one year from approval, or approval under this regulation shall be null and void.
- b) The permit to keep animals shall be issued after construction or remodeling of the facility is completed and approved by the Board of Health and the Inspector of Buildings.
- c) In cases where a building permit is required, preliminary Board of Health approval shall be indicated by countersigning said building permit by the Board of Health or its authorized agent.
- d) In cases where a building permit is not necessary, approval by the Board of Health shall be given by means of the issuance of the animal permit itself.
- e) No Stable or Small Animal Shelter shall be located within 50 feet of a wetland. No pasture, corral or pen shall be located within 25 feet of a wetland.
- f) No Stable shall be located within 100 feet of a dwelling (excluding an owner-occupied dwelling). No Small Animal Shelter shall be located within 25 feet of a dwelling (excluding an owner-occupied dwelling).

6.0 SANITARY REQUIREMENTS

- 6.1 No person owning a facility for the keeping of animals shall willfully or through negligence, cause or allow:
 - a) Odors, pests or other nuisance conditions from animals, animal manure or other animal related activities to be perceptible at the property boundaries.
 - b) Drainage or liquid effluent containing urine and/or fecal matter from any animal kept at said facility to be discharged in runoff, or to flow over the surface of the ground onto neighboring property, public way or watercourse.
 - c) The floor and/or the ground of the facility for the keeping of animals to be designed, constructed, and/or maintained so as to cause or contribute to unsanitary conditions at said facility.

- 6.2 An MMP shall be in place and management and/or disposal of manure and soiled bedding shall be such as to minimize odors, breeding of flies, and the attraction of vermin. Manure shall be collected and stockpiled at a single location, carefully chosen to maximize the distance from any abutting property, at least 50 feet from any wetland or well, and with due consideration of the prevailing winds.

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- 6.3 Animals shall be maintained in a clean and healthy condition.
- 6.4 Any animal feed that is stored on, at, or proximate to the facility for the keeping of animals shall be stored in sealed, moisture-proof, vermin-proof, and rat-proof containers.
- 6.5 No owner of a facility for the keeping of one or more animals, shall willfully or through negligence, cause, suffer, allow, or permit an infestation of vermin at said facility. The continuance of an infestation of vermin at or near the facility beyond a date specified by the Board of Health, when the owner of the facility has been ordered by the Board of Health to abate any such infestation in a safe and sanitary manner, shall be cause for revocation of permit and initiation of legal proceedings to eliminate said conditions.
- 6.6 Dead animals from a permitted facility shall be buried, incinerated, or disposed of in such a way as to prevent the attraction of flies and prevent odors. If buried, the animal shall be put in a hole and covered with at least four feet of compacted dirt. The burial site shall be at least 50 feet from any watercourse.

7.0 PREVENTION OF NUISANCE CONDITIONS

- 7.1: No person shall own or keep within the limits of this town any animal which, by bleating, biting or howling, or in any other manner, disturbs the peace and quiet of any person, and no person shall own or keep within the limits of this town any bird or fowl which, by screeching or crowing or by any other noise, disturbs the peace and quiet of any person.
- 7.2 Any animal deemed to be dangerous in the view of the Board of Health, its agents or the Police Department may be ordered removed or destroyed and if removal or destruction is determined to be of immediate need, it may be conducted without prior notification of the owner.
- 7.3 No person within the town shall feed any wild animals, including, without limitation, ducks, geese and raccoons, or any homeless dogs or cats, except birds through freestanding bird feeders or bird feeders attached to a private residence. Persons feeding their own domestic animals shall do so only in a shelter space that is inaccessible to wild or roaming animals.
- 7.4 No person within the town shall possess, maintain, propagate, cultivate or deal in non-exempt wild or exotic animals requiring a permit from the MA Fish and Wildlife Division under MGL c. 131, § 23.

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8.0 APPLICATIONS, PERMITS, FEES

- 8.1 All new applications for a permit to keep animals shall be submitted on a form supplied by the Board of Health. Such application shall include:
- a) A demographic plan:
 - 1. How property will be used
 - 2. The names and addresses of all abutters
 - 3. The proposed location of the Stable and/or Small Animal Shelter
 - 4. The location of any streams, drains, or known sources of water supply within one hundred (100) feet of the facility.
 - b) A sanitary plan:
 - 1. How the property shall be maintained to be kept clean and free of filth and stagnant water.
 - 2. An MMP.
 - 3. The method to be used to control flies and rodents.
 - 4. The construction details of the facility with necessary drainage details
 - 5. Depict required/appropriate set-back distances.
 - 6. The type, location and dimension of fencing.
- 8.2 All permits shall specify the exact number and type of animals to be kept within the area described for the keeping of such. No animals in excess of the specified number shall be kept therein.
- 8.3 An Animal Inspector or Agent of the Board of Health shall visit the property to confirm fitness and suitability of the site.
- 8.4 The permit fee shall be that specified by the existing schedule of fees at the time of application or renewal.
- 8.5 Permits shall expire on December 31 of each year, unless sooner revoked or temporarily suspended by the Board of Health upon violation by the holder of any of the provisions of this regulation.
- 8.6 Application for renewal of permit shall be made each year on or before December 1 of each year, unless a later filing is allowed by the Board for good cause. New and renewal applications shall be on a form approved by the Board of Health.
- 8.7 The person or persons who have had a permit denied or canceled shall be ordered to remove all unlicensed animals from the property occupied by said animals.

- 8.8 A permit to keep animals on property in the Town of Bedford is not transferable.
- 8.9 All permits issued for the keeping of animals prior to the adoption of this regulation shall be valid, and may be renewed subject to the regulation in effect prior to the adoption of this new regulation providing conditions and agreements contained in the original applications have not changed, and that no conditions exist that would be injurious to public health, or restrict the normal use and enjoyment of contiguous property. All renewal of permits subsequent to the adoption of this regulation shall be subject to the adopted schedule of fees.
- 8.10 All new applications for a permit to keep animals and all variance requests submitted after ~~September~~ November 1, 2016 will be considered by the Board only after the Board conducts a public hearing. Notice of public hearing shall be provided, at the applicants' expense, by U.S. mail to all abutters (see definition of abutter) and by legal notice in a local newspaper of general circulation. Both methods of notice shall provide at least fourteen days' notice prior to the public hearing. The applicant shall submit a list of abutters, certified by the Town Assessor, with the application.

9.0 PENALTIES

If there is a violation of this regulation, including but not limited to if any deficiencies on the property in any way affecting the well-being of the animal, the immediate neighborhood and/or the public health are found, upon routine inspection by the Animal Inspector or upon complaint received by the Board of Health, and an inspection confirms the validity of such complaint, a representative of the Board of Health or its agent may issue a written order ("Order") to the person or persons having control of the premises to correct the offending deficiencies.

As an alternative to an Order or in the event that a person does not comply with an Order and such Order is not modified or withdrawn, the Board may commence an enforcement action to correct such violation(s).

In accordance with Massachusetts General Laws Chapter 111, Section 31, any violation of this regulation shall be subject to a maximum fine of up to one thousand dollars (\$1,000) per offense. Each day the violation continues shall be considered a separate offense. Nothing contained herein shall preclude the Board from seeking equitable relief to enforce this regulation.

The Board may suspend, revoke or deny a permit if a permit holder is found to be in violation of any provision of this regulation by the Board.

10.0 HEARINGS

Any person to whom an Order has been served shall have the opportunity to request a hearing before the Board. A request must be made in writing within seven (7) days after the Order was served. For purposes of this section, an Order shall be deemed to have been served on the date of mailing, except as stated otherwise on the Order. At the hearing an owner may be given an opportunity to present evidence and to show why an Order should be modified or withdrawn.

11.0 VARIANCES

11.1: Variance to any section of this regulation may be requested in writing to the Board. When such a request is received, the matter will be reviewed at a Board of Health meeting and held in accordance with the requirements of Section 11.0 of this regulation.

11.2: Variances shall be granted only under the following conditions:

- a) Strict enforcement of this regulation will constitute a manifest injustice AND,
- b) The granting of the variance shall not in any way impair the public health and safety, the environment or animal health.

The Board may impose any conditions, safeguards and other limitations on a variance when it deems it appropriate to protect the public health and safety, the environment and/or animal health.

12.0 SEVERABILITY

If any provision of this regulation is declared by a court of competent jurisdiction to be invalid or not enforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.