

DRAFT-MINIMUM STANDARDS FOR THE KEEPING OF ANIMALS

TOWN OF BEDFORD
BOARD OF HEALTH
(Effective _____, 2016)

my notes in this margin reference the section of the recent draft reg that covers this topic "old"

1. AUTHORITY

1.1. 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" and Section 155.

Comment [CS1]: Add state stable law.

2. PURPOSE

2.1. This regulation is promulgated to provide minimum standards for the protection of public health, safety and welfare in Bedford. This regulation is not intended to unreasonably regulate the use of land for commercial agriculture. Commercial agriculture may be limited by town bylaw to activities on parcels of 5 acres or more or on parcels of 2 acres or more if the sale of products produced from the agricultural use on the parcels annually generates at least \$1000 per acre based on gross sales dollars in accordance with G. L. Chapter 40A, Section 3. 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.

did 4.4

3. DEFINITIONS

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

3.2. 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.

Comment [CS2]: Is this the right number of feet? What about "physically abutting"?

3.3. Animal: all animals and livestock, which are kept as domesticated animals, excluding: companion animals as defined herein, 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.

Comment [MFB3]: This is arbitrary. It does not take into account any site specificity. Is the abutter a sewage treatment plant or a nursing home? How you ensure there are no adverse impacts depends on the specifics fo the site.

3.4. Animal structure: any structure used to house, shelter or contain livestock and animals.

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

add household pets are exempt

(N) = Newly added

- 3.6. Board of Health or “the Board”: the Bedford Board of Health and/or its designated agents.
- 3.7. Cockerel: young male chicken.
- (N) 3.8. Companion Animals: Animals that are primarily kept indoors for non-commercial purposes including but not limited to dogs, cats, ferrets, pot-bellied pigs, fish, domesticated or exotic birds, guinea pigs, hamsters, and mice.
- 3.9. Corral: any pen or enclosure for confining one or more animals.
- 3.10. Dwelling: any building, structure or shelter used or intended for human habitation.
- 3.11. 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 structure such as a barn and/or stable.
- (N) 3.12. Fencing: Installed for the purpose of privacy or livestock and animal containment.
- (N) 3.13. Generally acceptable agricultural practices: practices that the applicant can demonstrate are consistent with the Massachusetts Department of Agricultural Resources Bureau of Animal Health’s (MDAR’s) Generally Acceptable Agricultural Practices (GAAPs). The applicant can utilize MDAR; the USDA Natural Resource Conservation Service, <http://www.nrcs.usda.gov/wps/portal/nrcs/site/ma/home/>; the MA Association of Conservation Districts, <http://maacd.org/>; and UMASS Extension, <https://ag.umass.edu/quick-guide-to-extension-agriculture-and-horticulture-resources>; and other resources in his/her effort to demonstrate consistency.
- 3.14. 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.
- (N) 3.15. Livestock: Animals kept for agricultural purposes including but not limited to cattle, goats, sheep, swine, equines, camelids, poultry and other fowl. For the purposes of this regulation the definition of “Livestock” shall not include roosters or cockerels.
- 3.16. Manure Management Plan (MMP): A plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization and removal of manure.
- 3.17. 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.
- 3.18. 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.
- 3.19. 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.
- 3.20. Rooster: male chicken.
- 3.21. Stable: An accessory building or structure used for the shelter and/or feeding of one or more animals.
- 3.22. Stall: a compartment in a stable used for the keeping of one or more animals.

Comment [MFB4]: Lead with the general concepts. The examples are not broad nor complete and should not be viewed as the basis of determining generally accepted agricultural practices. Note too that DAR Animal Health focuses only on animal health - not nuisance or non-health issues.

- 3.23. 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.
- 3.24. Wetlands: land area or surface area so defined by the Massachusetts Wetlands Protection Act, G. L. Chapter 131, Section 40 and regulations promulgated pursuant thereto at 310 CMR 10.00 or pursuant to Section 404 of the Federal Water Pollution Control Act, U.S.C. [1341]
- 3.25. 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 Massachusetts General Law Chapter 131, Section 23 and 319 CMR 9.0.

Comment [CS5]: Check this citation.

Comment [MFB6]: Note that the BOH has no authority over wetlands unless 1) directly related to public health such as drinking water sources or shellfish beds; or 2) part of title V

4. GENERAL REQUIREMENTS

- 4.1. All applications must be submitted to the Board of Health for review and approval and meet the criteria set forth in Section 5.0 of this regulation.
- 4.2. All structures must comply with the setbacks as set forth in the town of Bedford's Zoning By-Laws, notwithstanding protection accorded by G. L. Chapter 40A, Section 3 and the Wetland Protections Act, 310 CMR 10.00.
- 4.3. All facilities for the keeping of animals shall be securely fenced so as to prevent the escape of animals therefrom.
- 4.4. 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.). Animals shall not be allowed to cause property damage or pose a risk to public health safety. *and*
- 4.5. In accordance with G. L. Chapter 111, Section 125A, "... the odor from the normal maintenance or the spreading of manure upon agricultural, horticultural or farming lands, or noise from livestock or farm equipment used in normal, generally accepted farming procedures or from plowing or cultivation operations upon agricultural and horticultural or farming lands shall not be deemed to constitute a nuisance."
- 4.6. Companion animals are exempt from the regulation with the exception that the Board may impose a permit in situations where animals are kept in unreasonable numbers or conditions that result in a public nuisance or recognized hazard to the health and welfare of the municipality.

old 4.2-4.3

old 4.6

old 4.11

odor

(N)

(N)

no rule
25 = no permit

5. PERMIT AND APPLICATION REQUIREMENTS

5.1. A permit is required for anyone keeping one or more animals as defined in this regulation, except on parcels of two or more acres of land which meet the requirements of G.L. Chapter 40A, Section 3 and/or G. L. Chapter 128, Section 1a.

Comment [MFB7]: 40a 3 already refers to 1281a

5.2. 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 Bedford. Such application(s) shall be accompanied by the following information:

- 5.2.1. Name, mailing address and telephone number of the owner of the property.
- 5.2.2. Name, mailing address and telephone number of the occupant of the property.
- 5.2.3. Location – street address of the premises to be used.
- 5.2.4. Number and species of animals to be housed.
- 5.2.5. 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 structure(s), corrals, septic system, private wells and wetlands. A hand-drawn plot plan is acceptable so long as it is of sufficient detail and quality to allow for board review.

Comment [MFB8]: The degree

- 5.2.6. A written management plan for the following:
 - 5.2.6.1. manure management
 - 5.2.6.2. storage of feed
 - 5.2.6.3. pest management
- 5.2.7. Said permit shall not be transferable as to other animals, or assignable for the use of other persons or the use of other premises.

5.3. Said permit shall expire on Dec 31 of each year, unless sooner revoked by the Board for violation of any of the provisions of this regulation. A permit holder must apply for a renewal of the permit at least thirty (30) days prior to the expiration of said permit.

5.4. No permit shall be issued for more than 14 pigeons or 6 poultry per property, unless the applicant presents a plan consistent with generally accepted agricultural practices described above in section 3.0.

Comment [CS9]: Heidi, do you want a limit?

Comment [MFB10]:

Comment [MFB11]: I would not put a limit in. This is site and management specific.

5.5. 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.

5.6. 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.).

already in 4.04

5.7. 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.

5.8. All new applications for a permit to keep animals and all variance requests submitted after _____, 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.

5.9. The burden shall be upon the applicant to establish that the granting 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.

✓ 5.10. The following animals are prohibited within the Town of Bedford:
5.10.1.1. Roosters, cockerels and non-exempt wild animals, in accordance with G. L. Chapter 131, Section 23.

old 7.0 prev. nuisance level.
old 4.1

6. CONSTRUCTION AND CONSTRUCTION CHANGES

6.1. No person shall erect, occupy or use for a stable, accessory structure or corral intended for the housing or confining of animals unless and until he/she has submitted an initial or revised plan to the Board for review and the same has been approved.

old 5.0

7. PENALTIES

7.1. If there is a violation of this regulation, 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.

7.2. 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).

7.3. 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.

7.4. 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.

Comment [CS12]: Heidi, do you want to utilize 21D?

*person's receipt of
CEA final mail*

8. HEARINGS

8.1. 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 has been 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.

Comment [CS13]: Not sure this is a good idea.

9. VARIANCES

9.1 Variance to any section of this regulation may be requested in writing to the Board. When such a request is received, a hearing shall be scheduled in accordance with Section 5.8 above.

9.1.1 Variances shall be granted only under the following conditions:

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

9.2 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 or the environment.

10. SEVERABILITY

10.1. 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.