

Regulation of the Medway Board of Health Minimum Standards for the Keeping of Animals

A. Authority

This Regulation is pursuant to the authority granted to the Town of Medway Board of Health by Massachusetts General Laws Chapter 111, Section 31, which provides that “Boards of Health may make reasonable health regulations,” and Massachusetts General Laws Chapter 111, Section 155.

B. Purpose

1. This regulation is promulgated to provide minimum standards for the keeping of animals in Medway by enabling residents to have the opportunity to participate in the growing national trend for responsible, small scale agricultural promotion while protecting public health, safety, and welfare in Medway.
2. This regulation is not intended to regulate the use of land for commercial agriculture. Property owners are cautioned that there may be restrictions on such activity in other laws, including but not limited to the Medway Zoning Bylaws, and nothing herein shall be deemed to relieve any property owner of their obligations under such other laws.

C. Definitions

For the purpose of this regulation, the following words shall have the following meanings:

Abutter: Owners of the abutting land or property within three hundred (300) feet of the area of 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 possesses an ownership interest in the 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 or exotic animal as regulated by Massachusetts General Laws Chapter 131, Section 23 and 321 CMR 9.00.

Animal Structure: Any structure used to house, shelter or contain livestock and animals, including but not limited to coops, barns, and stables.

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

Board or Health or “the Board”: The Medway Board of Health and/or its designated agent(s). Designated agents include but are not limited to Board of Health staff and Medway Animal Control Officer.

Commercial Agriculture: The keeping of animals is in support of farming or agricultural activities that generate revenue if the use of the property meets the definition of “farming or agriculture” in Massachusetts General Laws, Chapter 128, Section 1A; the subject property is comprised of five (5) acres or more; or the property is comprised of two (2) acres or more and the sale of products produced from the agricultural use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars.

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.

Cockerel: Young male chicken

Facility: The total accommodations to be used for the keeping and care of one or more animals, including but not limited to land/ fencing 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.

Generally acceptable agricultural practices: Practices that the applicant can demonstrate are consistent with the Massachusetts Department of Agricultural Resources Division of Animal Health's (MDAR's) Generally Acceptable Agricultural Practices (GAAPs).

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. In the event the classification of an animal as a household pet is ambiguous or objected by an applicant, a hearing may be held to determine if the animal will be designated as a household pet.

Keeping of Animals Permit or "Permit": A permit issued by the Board 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.

Manure/ Waste Management: A plan for the handling of manure. Manure/ waste management shall address cleaning, composting, storage, utilization, and removal of manure.

Nuisance: Any condition including, but not limited to, objectionable noise, offensive odor, attraction or breeding of insects, such as flies, an environment supporting the presence of rodents, or any other condition having public health or environmental significance. This definition shall be applied in a manner consistent with the provisions of M.G.L. Chapter 111, Section 125A.

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, owning property, or carrying on an activity regulated by this regulation.

Pest Management: 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 subject to protection pursuant to the Wetlands Protection Act, Massachusetts General Law, Chapter 131, Section 40 and regulations promulgated pursuant to 310 CMR 10.00 and/or by the Medway Wetlands Protection bylaw and/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 Massachusetts General Laws, Chapter 131, Section 23 and 321 CMR 9.00.

D. Permit and Application Requirements

1. No Person shall keep animals without a permit from the Board of Health, except the following:
 - a. the keeping of animals in as part of commercial agriculture which meet the requirements of M.G.L., Chapter 40A, Section 3, M.G.L. Chapter 128, Section 1A, subject to compliance with the Town of Medway Zoning Bylaws.
 - b. Veterinary hospitals
 - c. Medical research facilities
 - d. Commercial pet shops
 - e. Animal pounds or shelters operated by Animal Control or private non-profit rescue organizations.
 - f. The keeping of household pets
2. The keeping of bees requires a permit from the Board of Health.
3. The keeping of five (5) or more rabbits requires a permit from the Board of Health.
4. The keeping of non-exempt wild animals, in accordance with Massachusetts General Law Chapter 131, Section 23 and 321 CMR 9.00 is prohibited within the Town of Medway.
5. 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 Medway. Such application(s) shall be accompanied by the following information, and will be deemed incomplete if any information, plan, or fee is missing. New permit applications shall include:
 - a. Name, mailing address, phone number and email of applicant(s), including an emergency contact number.
 - b. Location – street address of the premises to be used.
 - c. Maximum number and species of animals to be kept

- d. A plot plan, with dimensions of the area where animals will be kept. Also required on the plot plan are the locations of dwellings, 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 of sufficient detail and quality to allow for Board review.
 - e. A written management plan for the following:
 - 1. Manure/ waste management
 - 2. Storage of feed
 - 3. Pest management
 - f. Application fee as indicated on the current Board of Health fee schedule.
6. Permit are not transferable to other persons or properties.
7. All new permit applications and applications for variances will be considered by the Board after the Board conducts a public hearing. Notice of the public hearing shall be provided to all abutters by mail at the applicant's expense. Notice shall provide for at least fourteen (14) days' notice prior to the public hearing. The applicant shall submit a list of abutters, certified by the Board of Assessors with the application or variance request and a sworn statement that the applicant has mailed notice to each abutter by first class mail. The applicant must demonstrate that the issuance of a permit will not be detrimental in any way to public health, safety, or welfare, will not result in a nuisance and that all applicable requirements of this regulation and other applicable laws have been satisfied. The Board may impose conditions, safeguards, and other limitations on a permit consistent with the public health, safety, and welfare.
8. The applicant must provide written approval from the Building and Conservation Departments as part of the application.
9. Permits expire on December 31st, unless sooner revoked or suspended by the Board after a hearing. A permit holder must apply for a renewal of the permit at least thirty (30) days prior to the expiration of the permit. Any changes from the previous permit shall be provided on a renewal application. If a completed application for renewal is submitted prior to the deadline, and no changes are being made, the permit may be administratively renewed by the Board's agent without a hearing. If a permit holder fails to timely apply for a renewal of the permit or if there are proposed changes to the permit conditions, including any changes in the number or types of animals to be kept, the permit holder's application may be treated as an application for a new permit. Notwithstanding the terms of this section, the Board may require a hearing before granting any permit renewal.
10. If the permit holder is not the owner of the property, documentation must be provided indicating that the property owner consents to the keeping of animals on the property.
11. All permits issued prior to the effective date of this regulation are valid until December 31, 2023 and may be renewed thereafter in accordance with this regulation.
12. Once a permit is issued, the permit holder shall not increase the number of animals, change the species of animals, change the location for the keeping of animals on the property or otherwise modify the facility prior to the end of the permit year without the approval of the Board or its agent. The permit holder must apply for and obtain a permit modification prior to implementing any changes. If the Board's agent determines that the requested change

will not materially change the circumstances on which the permit is based, the agent may administratively approve the modification without a hearing. Otherwise, the application will require a public hearing subject to the hearing procedures for new applications and variances.

E. General Requirements

1. No person shall erect, occupy, use, rebuild, reconstruct, alter, or structurally change an animal structure or facility intended for housing or confining of animals unless approval is granted by the Board of Health as part of a permit, a renewal or modification to a permit. This section shall not apply to repairs to an existing animal structure or facility.
2. 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, including obtaining any necessary permissions and arrangements for such animals to be taken elsewhere (i.e. for grazing, pest control, etc.). This section shall not apply to animals taken off site for medical care. Bees are exempt from this section (E)(2).
3. All facilities subject to a permit shall be subject to inspection by the Board's agent at reasonable times.
4. The permit holder shall keep animal structures and facilities clean from decaying food, filth, animal waste and shall have a plan for manure/ waste management approved by the Board of Health. The Board of Health or Animal Control may order animal structures or facilities to be cleaned at any time.
5. Manure/ waste storage areas shall be located free of storm water run-off from any structure, be graded to keep surface water from running over or through waste storage and not be subject to seasonal flooding. Manure/ waste shall be kept covered, composted, or removed off site on a sufficient regular basis. Manure/ waste storage areas shall be at least one hundred (100) feet from any well serving or intended to serve water for human consumption or for domestic indoor use.
6. All animals shall be treated in a humane manner at all times, including access to fresh food, potable water and protection from the elements. It is illegal to abuse, either physically or by neglect, any animal. The Board of Health or its agent may at any time require the removal of an animal from the custody of any person when it is determined that the health, safety, or welfare of an animal is jeopardized. The Board will assist the Massachusetts Society for the Prevention of Cruelty of Animals (MSPCA) and/or the Animal Rescue League of Boston (ARL) in this process.
7. Storage of feed shall be kept in a manner which shall prevent infestation by rodents, insects or the release of objectionable odors such as a lidded metal or plastic container.
8. No rooster(s) or cockerel(s) are allowed in Medway, except as a part of commercial agriculture as defined herein.
9. The feeding of garbage to animals is prohibited unless prior approval is granted to the permit holder by the Board of Health.

10. If an animal contracts a reportable disease, the permit holder shall report to MDAR's reportable disease program and the Board of Health.
11. The Board may order the removal of animals if the Board determines a health risk exists, the animals are being abused or there are violations of this regulation or any other applicable law.
12. Liquid and/or solid animal waste shall not be discharged in runoff onto neighboring properties, public ways, waterways, wetlands, and wells. Water, including drainage, shall not collect and become stagnant or create a ponding effect on the facility.
13. The permit holder shall maintain their animals and facilities so that nuisance conditions do not exist. The creation of nuisance conditions may result in the revocation of the permit.
14. No person shall keep animals under this regulation inside a dwelling.

F. Setback and Property Acreage

1. The following minimum acres of property shall be required for the following. If the animal species is not listed below, the Board of Health will determine whether the applicant's property has sufficient land area to care for the species and number of animals listed in the application:

0- 4 domestic fowl	1/8 acre
5- 6 domestic fowl	1/4 acre
7- 10 domestic fowl	.5 acre
11- 20 domestic fowl	1 acre
1 or more pigs	2 acres

2. The following minimum setback distances shall be required for the following; provided, however, that the Board of Health may require greater setback distances to protect public health, safety and welfare or to prevent nuisance conditions:

Animal structures (unless specified below)	15 feet from any lot line or public way
Animal structures for the keeping of fowl	35 feet from public ways and 15 feet from other abutting property lines
Facility for the keeping of pigs	100 feet from all property lines and public ways
Beehives	15 feet from property lines and 25 feet from public ways

G. Enforcement and Penalties

1. This regulation may be enforced by the Board of Health or its duly authorized agents.
2. Refusal by a permit holder to cooperate with inspections pursuant to this regulation constitutes a violation.

3. Whoever violates any provision of this regulation and/or any condition in a permit or order issued by the Board or its agent may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

First Offense:	Written Warning
Second Offense:	\$100
Third:	\$200
Fourth and subsequent offense:	\$300

Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

4. Whoever violates any provision of this Regulation and/or any condition in a permit or order issued by the Board of Health or its agent may be penalized by indictment or on complaint brought in the district court. Except as may be otherwise provided by law and as the district court may see fit to impose, the penalty for each violation or offense shall be as set forth in Massachusetts General Laws, Chapter 111, Section 31. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
5. The Board may issue an order to correct and/or modify, revoke, or deny a permit if a permit holder is found to be in violation of any provision of this regulation, or any other applicable law concerning the operation of the facility, or if the operation of the facility constitutes a nuisance or is otherwise a threat to the health, safety or welfare of the animals or people at the facility or the public.
6. The Town may enforce this regulation or enjoin violations thereof through any lawful process, and the election of one remedy shall not preclude enforcement through any other lawful means.
7. The person(s) who have had a permit denied or revoked shall be ordered to remove all animals from the property within 30 days of said denial or revocation or within a time frame determined by the Board of Health.
8. The permit holder shall be responsible for making arrangements to re-home the animals after any modification or revocation of a permit. If the owner fails to make suitable arrangements for re-homing the animals within the time required by the Board of Health, the Town may re-home the animals at the owner's expense.
9. Any person to whom an order has been served pursuant to this Section shall have the opportunity to request a hearing before the Board of Health. A request must be made in writing within fourteen (14) days after the order has been served. For the 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, the person served with the order shall be given an opportunity to present evidence and show why an order should be modified or withdrawn; provided, however, that a request for a hearing shall not suspend the operation of the order, which shall remain in effect and must be complied with unless and until it is modified or withdrawn by the Board.

H. Variances

1. Variance to any section of this regulation may be requested in writing to the Board. When such a request is received, a public hearing before the Board shall be scheduled. All abutters shall be notified of the variance application and the date, time and location of the hearing.
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 a variance shall not in any way impair the public health and safety or the environment.
3. 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.

I. 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.

Signed this Sixth day of November, 2023

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

Effective date: 11/7/2023

A True Copy
Attest: Stefany Ohannesian
Town Clerk Medway