

Regulation of the Town of Danvers Board of Health

Minimum Standards for the Keeping of Animals on Residential Premises

1. AUTHORITY:

This Regulation is pursuant to the authority granted to the Danvers 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.

2. PURPOSE:

- a. This regulation is promulgated to provide minimum standards for the keeping of animals in Danvers 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 Danvers.
- b. This regulation is not intended to regulate the use of land for commercial agriculture as defined in Section 3 of this Regulation.

3. DEFINITIONS:

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

- a. 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.
- b. 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 Massachusetts General Laws Chapter 131, Section 23 and 321 CMR 9.00.
- c. Animal Structure: Any structure used to house, shelter or contain livestock and animals.
- d. Applicant: A person who applies for a permit to keep one or more animals pursuant to this regulation.
- e. Board of Health or “the Board”: The Danvers Board of Health and/or its designated agent(s).

- f. Cockerel: Young male chicken.
- g. Commercial agriculture: May be limited by the Danvers Zoning Bylaw to farming activities defined by MGL Chapter 128, Section 1A, of five (5) acres or more; or on parcels of two (2) acres or more, if the sale of products produced from the agricultural use on the parcel generates at least \$1,000 annually per acre based on gross sales dollars in areas not zoned for agriculture in accordance with Massachusetts General Laws Chapter 40A, Section 3.
- h. Corral: Any pen or enclosure for confining one or more animals.
- i. 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 include, but are not limited to, any equine or bovine animal, goat, sheep, swine, dog, cat, poultry or other domesticated beast or bird.
- j. Dwelling: Any building, structure or shelter used or intended for human habitation.
- k. 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, including, but not limited to, a barn or stable.
- l. Fencing: Enclosure material installed for privacy or livestock and/or animal containment.
- m. Feed management plan: A plan for the keeping and management of feed.
- n. 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). The following are some potential resources (not an exhaustive list) that can be consulted to establish compliance with the MDAR GAAPs:
 - i. MDAR, <http://www.mass.gov/eea/agencies/agr/>;
 - ii. The USDA Natural Resource Conservation Service, <http://www.nrcs.usda.gov/wps/portal/nrcs/site/ma/home/>;
 - iii. The MA Association of Conservation Districts, <https://massacd.wordpress.com/>;
 - iv. UMASS Extension, <http://ag.umass.edu/resources/agriculture-resources>

- o. 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.
- p. 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.
- q. Livestock: Animals kept for agricultural purposes, including but not limited to cattle, goats, sheep, swine, equines, camelids, poultry and other fowl.
- r. Manure Management Plan (MMP): A plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization and removal of manure.
- s. 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.
- t. 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.
- u. 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.
- v. Rooster: An adult male chicken.
- w. Stable: An accessory building or structure used for the shelter and/or feeding of one or more animals.
- x. Stall: A compartment in a stable used for the keeping of one or more animals.
- y. 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.
- z. 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 CMR 10.00 or by the Danvers Wetlands Protection bylaw or pursuant to Section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1341.
- aa. 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.

4. GENERAL REQUIREMENTS:

- a. All applications must be submitted to the Board of Health for review and approval and shall meet the criteria set forth in Section 5 of this regulation.
- b. All new structures must comply with the applicable setback requirements for the zoning district in which such structures are located as set forth in the Danvers Zoning bylaws, aside from protection accorded by Massachusetts General Law, Chapter 40A, Section 3 and the Wetlands Protection Act, 310 CMR 10.00.
- c. 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, arrangements for such animals to be kept elsewhere (i.e. for grazing, pest control, etc.).
- d. The keeping of roosters, cockerels and non-exempt wild animals, in accordance with Massachusetts General Law Chapter 131, Section 23 is prohibited.
- e. 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 for its review and approval. This section shall not apply to repairs. It is the responsibility of the applicant to comply with Danvers' Zoning Bylaws and applicable sections of the building code when conducting construction or construction changes referenced in Section A above.
- f. 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.

5. PERMIT AND APPLICATION REQUIREMENTS

- a. 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 Massachusetts General Law, Chapter 40A, Section 3 and/or Massachusetts General Laws Chapter 128, Section 1A.
- b. Application(s) for a permit must be submitted on a form supplied by the Board for each location where animals are kept in Danvers. Such application(s) shall be accompanied by the following information, and will be deemed incomplete if

any information, plan or fee is missing.

- i. Name, mailing address, phone number and email of all owners of the property, including an emergency contact number.
 - ii. Location – street address of the premises to be used.
 - iii. Maximum number and species of animals to be kept.
 1. 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 may require a public hearing if the Board believes that the increase will materially change the application upon which the permit is based.
 - iv. 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. Hand-drawn details to the plot plan are acceptable so long as it is of sufficient detail and quality to allow for Board review.
 - v. A written management plan for the following:
 1. Manure management
 2. Storage of feed
 3. Pest management
 - vi. Application fees as indicated on the current Board of Health schedule of fees.
- c. 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.
- d. The permit shall expire on December 31st of each year, unless sooner revoked or suspended by the Board after a hearing.
- e. A permit holder must apply for a renewal of the permit at least thirty (30) days prior to the expiration of the permit. 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. A permit will not be denied without cause in the form of valid complaints and/or violations of this regulation or other laws.
- f. If the permit holder is not the owner of the property, documentation must be provided indicating that the property owner is not opposed to the keeping of animals on the property.

6. PENALTIES

- a. If there is a violation of this regulation, a designated agent of the Board of Health may issue a written order ("Order") to the person or persons having

control of the premises and to the permit holder (if different) to correct the offending deficiencies within a reasonable specified time.

- b. As an alternative to an Order, or if 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).
- c. Any violation of this regulation shall be subject to fines in accordance with Chapter XXVII, Section 5 of the Town of Danvers By-Laws. 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.
- d. 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 after a hearing.
 - i. Arrangements for re-homing the animals shall accompany any suspension, revocation or denial of a permit. If the owner fails to re-home the animals pursuant to a suspension, revocation, or denial of a permit, the Board may act in accordance with MGL Chapter 111, Section 125 to re-home the animals. The cost for such re-homing will become a debt due to the Town of Danvers.

7. HEARINGS

- a. Any person to whom an Order has been served pursuant to this Section shall have the opportunity to request a hearing before the Board. A request for a hearing must be made in writing within seven (7) days after the Order has been served. For the purposes of this regulation, an Order shall be deemed to have been served on the date of service. At the hearing, the person served with the Order shall be given an opportunity to present evidence and show why the Order should be modified or withdrawn.

8. VARIANCES

- a. All variance requests will be considered by the Board only after the Board conducts a public hearing.
- b. Requests for a variance must be submitted in writing to the Board of Health.
- c. The applicant for a variance must demonstrate that the issuance of such variance shall not be detrimental in any way to the public welfare and would not

endanger the health or safety of the public, and that all applicable requirements of this regulation have been satisfied. The Board may impose conditions, safeguards and other limitations on a permit consistent with the public health, safety and welfare.

- d. Variances shall be granted only under the following conditions:
 - i. Strict enforcement of this regulation will constitute a manifest injustice; and,
 - ii. The granting of the variance shall not in any way impair the public health and safety or the environment.
- e. 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.

9. SEVERABILITY

- a. 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.

Adopted: February 20, 2020

Effective Upon Publication
Publication date:

Dr. Thomas McLaughlin, Chairman
Dutrochet Djoko
Edmund Kowalski