

Board of Health
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Regulation for the Keeping of Animals

Section 1. Purpose:

The Winchester Board of Health is responsible for the protection of the public health. These regulations are promulgated to protect the health and welfare of the public as well as animals kept within the Town.

Section 2. Authority:

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

Section 3. Definitions:

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

Abutter: owners of the land directly abutting the applicant's land. Referred to as "the abutters."

Animal: all animals, including fowl, that are kept or harbored as domesticated animals.

Applicant: Person (s) who seeks and has applied for a permit to keep animals.

Corral: any enclosure used to confine 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 the land, stable, pen, coop.

Farm: A farm is defined as such by any other local, state or federal law or regulation.

Fowl: as used in these regulations shall mean members of the bird family, and shall include hens, ducks, and geese (other than wild species).

Hen: a female chicken. "Chicken" may also be used to refer to hens.

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.

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.

Lot: A contiguous area of property/land in one ownership, with definite boundaries, used or available for use, as the site of one or more buildings.

Noise: sound(s) that may, when of sufficient volume, intensity and/or duration, cause or contribute to an unsanitary condition.

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 these regulations as if he/she were the owner.

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

Permit Holder: any person who has met the conditions of these regulations 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 these regulations.

Rooster: Male chicken

Runoff: water from rain or melted snow that flows over the surface of the ground.

Stable: a building or structure in which animals are sheltered and/or fed.

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.

Nuisance Conditions: the state of a facility which, in the opinion of the Board of Health, is unsanitary because it is conducive to or results in breeding of flies or other nuisance insects, creation of offensive odors, rodent infestation, liquid effluent, runoff, and/or noise, in such concentrations and of such duration as to (a) cause a nuisance (b) be injurious or, on the basis of current information, potentially injurious to human health, or (c) unreasonably interfere with the healthy and safe enjoyment of life and property.

Vermin: various insects, bugs, or small animals regarded as objectionable because of their presence en masse, destructive or disease-carrying nature including but not limited to flies, mosquitoes, mice and rats.

Watercourse: any stream, drain, pond, lake, or other body of water drained by a stream, dry ditch, or other depression that will permit drainage water to empty into any open waters of the Commonwealth.

Wild Animal: any animal not normally kept as a domesticated animal.

4.0: Application, Permit and Fees:

4.1: No person shall keep or allow to be kept within the limits of the town of Winchester, in any building, or any lot on which he may be the owner, lessee, tenant, or occupant, any fowl, horses, cows, goats, or sheep without first obtaining a written permit from the Board of Health.

4.2: A new or renewal permit will be issued by the Board of Health or it's designated agent, and is contingent upon:

- A. submission of a completed application to keep animals to the Board of Health office;
- B. submission of fee for said annual permit or renewal permit that is specified by the existing schedule of fees at the time of application or renewal; and,
- C. successful inspection of the applicant's facility for compliance with this regulation by the Animal Control Officer, Health Director or authorized Board of Health staff member .

4.3: All new and renewal applications for a permit to keep animals must be submitted on a form supplied by the Board of Health. Such application must include, but is not limited to:

- A. A plan showing the property to be used, the names and addresses of all abutters, the proposed location of the facility, including housing/shelter for animal(s) and fencing, the location of any streams, drains, or known sources of water and compliance with all set-back distances and land requirements.
- B. Signatures of all direct abutters of applicant property will be required at the time of the initial application.
- C. An explanation to indicate how the property shall be maintained so that it will be kept clean and free of filth and stagnant water, and the method to be used to control flies and rodents.

4.4: Application for renewal of permit shall be made on or before May 1st of each year, unless a later filing is allowed by the Board for good cause.

4.5: All permits shall specify the exact number and type of animals or fowl to be kept within the area described for the keeping of such. No animals in excess of the specified number shall be kept therein.

4.6: Said permit will expire on May 31st of each year.

4.7: Said permit is not transferable to other animals or assignable to another person or property/lot.

Section 5.0: Construction and Construction Changes

5.1: 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, such as the town building inspector, if necessary.

- A. Such construction shall be commenced within ninety (90) days after Board of Health approval is given, and shall proceed without unreasonable delay or approval shall be null and void.
- B. The permit to keep animals shall be issued after construction of the facility is completed and approved by the Board of Health and the building inspector.
- 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.

Section 6.0: General Requirements

6.1: The following animals are prohibited: roosters, pigeons, swine and wild animals.

6.2: Front yard use for any part of the facility is prohibited.

6.3: Commercial and mixed use zones as defined by the Winchester Zoning Bylaw are prohibited from keeping animals.

6.4: Animals shall not be slaughtered at the property/permitted facility within the Town of Winchester.

6.5: 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.

6.6: Facilities for the keeping of animals must be located on a lot not less than:

- A. 50 feet from any swamp or watercourse
- B. 100 feet from any well used as a supply of drinking water
- C. 10 feet from any part of any individual sewage disposal area

6.7: These regulations shall not apply to a parcel of land defined as a farm by any other local, state or federal law or regulation.

6.8: All facilities for the keeping of animals shall be securely fenced so as to prevent the escape of animals.

6.9: A supply of potable water shall be available at or near the facility for feeding, and cleaning.

Section 7.0 SANITARY REQUIREMENTS

7.1: The owner, permit holder or other person(s) having control of any existing building or buildings hereafter erected or converted into a facility for the keeping of animals, shall keep said facility in a clean, wholesome and attractive condition, free from decaying food, filth, feces, and stagnant water. The buildings and pens of the facility shall periodically be disinfected, and put in such condition as may be ordered by the Board of Health.

7.2: No person owning a facility for the keeping of one or more 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

7.3: Management and disposal of manure and soiled bedding shall be such as to minimize odors, breeding of flies, and the attraction of vermin.

- A. Animal waste and waste products shall be stored in a sealed container and frequently removed from the property and properly disposed of. The composting of manure generated at permitted facilities will be allowed upon specific approval by the Health Director or Board of Health.

7.4: Animals shall be maintained in a clean and healthy condition.

7.5: Any animal feed that is stored on, at, or proximate to the facility for the keeping of animals shall be stored in watertight, vermin-proof containers with tight-fitting lids.

7.6: 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.

7.7: Dead animals from a permitted facility shall be disposed of in such a way as to prevent the attraction of flies and prevent odors.

Section 8.0: KEEPING OF FOWL:

8.1: Land and fowl requirements:

- A. Residential General (RG) Zone with 6500 square feet lot minimum:
 - 1. 3 fowl maximum
- B. All other residential zones >6500 square feet lot minimum:
 - 1. 6 fowl maximum

8.2: Facility (Coop and Pen) Requirements:

- A. A coop/henhouse is required for shelter of fowl:

1. Coop must have a minimum interior floor surface of at least 2 square feet per bird.
 - B. A Pen/Run is required:
 1. Pen must have a minimum ground surface of at least 5 square feet per bird.
 - C. Facility must be 10 feet from property/lot line
 - D. Facility must be 20 feet from all residential dwellings.
- 8.3:** Free-ranging of adult egg-laying hens is allowed under the following conditions:
- A. only in fully enclosed fenced-in yards, and
 - B. hens will be supervised at all times while roaming and,
 - C. the permit specifically allows for free-roaming.
- 8.4:** Fowl shall be kept within the confines of the facility (coop and pen) if free-roaming is not allowed under 8.3.
- 8.5:** Coops for the keeping of fowl shall be disinfected at least twice a year and more as necessary.

Section 9.0: Keeping of Horses, Cattle, Sheep and Goats:

9.1: Land and Animal requirements:

- A. One (1) acre is required for one horse, cattle, sheep or goat. No permit shall be issued to keep an animal on any lot of land containing less than one (1) acre.
- B. Each additional animal up to a total of four (4) requires an additional ½ acre per animal. More than four horses, cattle, sheep or goats may be permitted to be kept on lots containing more than 2 ½ acres, provided that lot dimensions are acceptable to the Board of Health, and provided that the granting of such permit will not adversely affect the public health, safety, and welfare.
- C. The usable area, drainage conditions and dimensions of the lot must also be acceptable to the Board of Health.

9.2: Stable Requirements:

- A. Stable(s) must be provided for the shelter of each animal and must:
 1. Provide 160 square feet of space for each animal.
 2. Be located at least 50 feet from any property line
 3. Be located at least 50 feet from any dwelling
 4. Be located at least 10 feet from any public or private way
 5. Have adequate bedding such as straw, hay or like material
 6. Be of sturdy construction and be well lighted so as to provide an adequate, healthy and safe environment for a horse.
 7. Provide adequate space to store related food and equipment.
 8. Provide doors of sufficient height and width to allow safe ingress and egress for horses.
 9. Have at least one window with screening for ventilation and light and,
 10. Have flooring consisting of a material acceptable to the Board of Health including, but not limited to: hardwood, concrete, or a thin layer of sand and clay over a gravel base. The floor shall be constructed so as to provide adequate drainage, to prevent urine from accumulating, and to allow easy removal of manure and soiled bedding.

9.3: Corral Requirements:

- A. A corral must be provided and be constructed of sturdy material, of at least five (5) feet in height, to adequately contain an animal and for the protection of people, other animals and contiguous property.
- B. The corral area must be a minimum of one thousand (1,000) square feet, including the stable site for the keeping of one horse. An additional corral area of three hundred (300) square feet for each additional horse shall be required.

9.4: No person shall build or cause to be built, a stable or other building or a fence as part of a facility to keep a horse until compliance has been achieved with all applicable local codes, including but not limited to Building Codes.

9.5: Facilities for the keeping of horses shall be located on well-drained land not susceptible to flooding. In no case shall a facility be located on impervious soil, or on ground on which stagnant water can collect.

9.6: Feces (manure) dropped by any horse kept at said facility shall not remain on the ground or floor for a period of time in excess of three (3) days, or sooner if necessary to prevent a nuisance/unsanitary condition.

9.7: Under no circumstances is a horse allowed to roam free or to be left tethered, unless in the presence of a responsible person.

10.0: Complaints

Upon receipt of a complaint, the Board or its agent will investigate the matter. If the complaint is substantiated, a written Order for corrective action will be issued to the owner that includes a timeline for such action.

11.0: Penalties

Violation of any provision of this regulation will result in an enforcement action to correct such violation(s). Failure to correct a violation within the specified time will subject person(s) to the following penalties:

1. In accordance with Chapter 8, Section 35 of the Winchester Code of By-Laws: Penalties include a criminal complaint being sought in district court or the issuance of a non-criminal disposition pursuant to Chapter 40, Section 21D of the Mass General Laws. Criminal fines include penalties up to three hundred dollars (\$300) each day the violation continues and non-criminal fines include a fine of fifty dollars (\$50) each day the violation continues.
2. The Board may suspend, revoke or deny a permit if a permit holder is found to be in violation.

12.0: 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. At the hearing an owner may be given an opportunity to present evidence and to show why an Order should be modified or withdrawn.

13.0: Variances

13.1: 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 13.

13.2: 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.
- C. The Board may impose any conditions of a variance it deems appropriate to protect the public health and safety, the environment and animal health.

14.0 Severability

If any provision of these regulations is declared invalid or not enforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

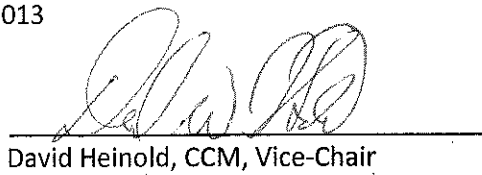
15.0 Effective Date

This regulation will take effect on: **January 1, 2014**

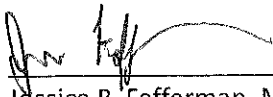
Enacted by Board of Health vote on: December 10, 2013



Bridget Stump, Chair



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