

# Sanitary Regulations for Keeping Animals in the Town of Somerset

As of 10/31/18

## Section 1. Purpose:

Due to the health concerns regarding waste and cleanliness that can occur due to the unsanitary keeping of animals, the Board of Health is creating minimum standards for the properties on which animals are housed, to prevent spread of disease and waste products.

## Section 2. Authority:

The Board of Health of the Town of Somerset, Massachusetts, as authorized by Massachusetts General Laws, Chapter 111, Section 31, hereby establishes Board of Health Regulation, "Sanitary Regulations for Keeping Animals in the Town of Somerset."

## Section 3. Definitions:

Abutter: owners of land sharing a common lot line, and that are directly opposite on any public or private street or way, and abutters to the abutters within one hundred feet of the property line of the petitioner as they appear on the most recent applicable tax list.

Animal: shall mean any animal such as but not limited to poultry, swine, cow, horse, sheep, goats, alpacas and llamas, but shall not include animals customarily kept as household pets such as dogs, cats, rabbits, etc.

Barn: means a building or structure in which animals are housed and/or fed.

Board of Health: means the legally designated health authority of the Town of Somerset, Massachusetts.

Coop: shall mean any building or enclosure, or any portion thereof where poultry are kept.

Facility: shall mean any real property or portion thereof and all Structures used for storage of food, supplies and/or equipment normally associated with the keeping of animals, and/or for the keeping or restraining of any animal except such of those that are subject to regulation under the provisions of Section 2B of chapter 128 of the General Laws pertaining to commercial riding stables. The entire Facility must be located within the property lines and meet the location requirements recommended in section 6 of these rules and regulations.

Feed: means a food mixture or preparation used for consumption by animals kept at a facility.

Flooding: means the temporary covering of soil with water on a frequent basis (occurring on an average of more than once in two (2) years of brief duration two (2) to seven (7) days).

Horse: means any solid-hoofed animal, including but not limited to horses, donkeys, ponies and mules.

Loft: Structure for keeping pigeons.

- A. there shall be at least one (1) square foot of floor space in any loft for each mature pigeon kept therein.
- B. enough nesting boxes for all the paired pigeons. (4-5 per loft)
- C. must have exposure to direct sunlight.
- D. Must be maintained and leak proof.

Manure: means excrement and used bedding from animals.

Owner: shall mean every person who alone, or jointly, or severally with others:

- A. has legal title to any facility, or
- B. has care, charge, custody, or control of any facility including but not limited to agents, executors, administrators, trustees, lessees or legal representatives.

Paddock: shall mean a fenced in area for turn out and/or exercising animals.

Pasture: shall mean a plot of fenced in land used for grazing and/or feeding of animals.

Person: shall mean any individual, partnership, corporation, firm, association or group.

Poultry: shall mean all domesticated or semi-domesticated edible fowl such as but not limited to chickens, turkeys, ducks, guinea fowl, pheasants, and pigeons. (American Racing Pigeons, with proper documentation, are exempt from these rules and regulations).

Runoff: shall mean any liquid or solid suspended in liquid that flows over the surface of the ground.

Shelter: shall mean the minimum housing required for horses, ponies, cattle, sheep, goats and swine.

Stable: means a building or structure or portion thereof in which animals are housed and/or fed.

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

Structure: shall mean any barn, building, enclosure, paddock, coop, shed, stable, stall, or similar enclosure used for storage of food, supplies and/or equipment normally associated with the keeping of animals, or for the keeping or restraining of any animal except such of those that are subject to regulation under the provisions of Section 2B of chapter 128 of the General Laws pertaining to commercial riding stables

Swine: shall mean any hoofed mammal of the porcine species.

Unsanitary: means that state of being of a facility which, in the opinion of the Board of Health, constitutes a nuisance, source of filth or cause of sickness or that poses a threat of nuisance, source of filth or cause of sickness, including but not limited to any or all of the following conditions that are conducive to or results in:

- a. breeding of flies
- b. creation of malodors
- c. vermin infestation
- d. the release of liquid effluent
- e. runoff that is not properly contained
- f. disease carriers
- g. odor and/or noise that exceeds generally accepted farming standards
- h. dust in such concentrations and of such duration as to
  - i. be injurious or, on the basis of current information, potentially injurious to human health, or
  - ii. unreasonably interferes with the comfortable enjoyment of life and property.

Vermin: shall mean any of various destructive insects or small animals including, but not limited to, flies, mosquitoes, lice, mice, and rats.

Wetland: as defined under M.G.L. Ch. 131, §40, 310 CMR 10.00, the Wetlands Protection Act, as amended from time to time.

#### **Section 4. Permit Requirement and Procedure**

4.1 No person shall own or operate a facility for the keeping of animals in the Town of Somerset without a permit issued by the Board of Health. No permit shall be required for the keeping of household pets, provided that, under no circumstance shall horses, swine, poultry, sheep, goats, llamas, alpacas or the like be considered household pets and the keeping of any number of such animals shall require a permit and compliance with this regulation. The owner or operator of a facility in existence prior to the effective date of these rules and regulations shall have until January 1, 2019 to apply for a permit.

4.2 Permits shall be in effect for a period of two (2) years from the date of issue, unless sooner revoked; provided, however, that permits shall automatically terminate upon transfer of ownership or occupancy of the subject property.

4.3 An application for a permit shall be in writing, on a form provided by the Board, and shall include but not be limited to the following information:

- a. The number of each type of animal that will be kept at the facility;
- b. The legal name and address of the property owner;
- c. The legal name and address of the operator of the facility, if different than the owner;
- d. The names and addresses of all parties entitled to notice in accordance with section 4.5 of this Regulation;
- e. A plot plan drawn roughly to scale showing all property lines, buildings, septic systems, wells, wetlands and the location of the proposed coops, paddocks, pastures, shelters and/or stables to be used for the keeping of animals and the location of the areas to be used for the storage and handling of animal waste and manure;

- f. A map showing abutting properties and the approximate location of all septic systems, wells, buildings and wetlands within 100 feet of the property line;
- g. A plan for the storage and removal of manure and waste;
- h. A floor plan of all stables and coops showing dimensions, location, stalls and facilities for storage and handling feed material and containing sufficient information for the Board to determine that the stables and coops are of sufficient construction so as to ensure the safe keeping of animals and the prevention of unsanitary or nuisance conditions; and
- i. Such other information as required by the Board.

4.4 The Board of Health will charge a permit fee of twenty dollars (\$20.00)\*Fee waived if application is received by January 1, 2019.

4.5 The Board and/or its authorized agent shall conduct a site inspection prior to issuing a permit upon receipt of a completed application and payment of applicable fees.

4.6 Permits may be issued by the Boards authorized agent if the application and inspection demonstrates recommended compliance with these rules and regulations. Either the agent or the applicant may request a hearing before the Board of Health if required. If requested by the applicant, the request shall in writing and shall be received no later than seven (7) days after the issuance of the agent's decision. Notice of said hearing shall be provided, at the applicants expense, to all abutters, owners of land directly opposite on any private or public streets or way, and abutters to abutters within 100 feet, and by publication in a newspaper of general circulation in the Town, once, at least seven days prior to the hearing.

4.7 If the agent and/or the Board finds that the issuance of the requested permit may result in a nuisance or unsanitary conditions or that it will otherwise create a risk of harm to public health, safety or welfare, the Board may deny the application.

4.8 In approving the issuance of a permit, the agent and/or Board may impose reasonable conditions designed to protect public health, safety and welfare and to prevent nuisance and unsanitary conditions, including but not limited to restricting the number or types of animals that may be kept at any one time or restricting the keeping of animals to only certain locations on the property.

4.9 All permits shall be subject to the condition that the Board and/or its authorized agent shall be permitted to enter the facility to inspect all areas related to the keeping of animals at reasonable times. Acceptance of a permit shall be deemed consent for such entry and inspection.

4.10 Permits may be renewed without conducting a public hearing provided that an application is submitted at least ninety (90) days prior to expiration. Any renewal application not received to prior to said deadline shall be treated as a new application.

## **Section 5. General Requirements for the Keeping of Animals**

5.1 The facility and all portions thereof shall be maintained in compliance with all applicable laws and in such a manner so as not to create an unsanitary condition.

5.2 The facility and all animals kept therein shall be maintained in such a manner so as not to result in unreasonable levels of noise, odor or other conditions which disturb the peace and quiet enjoyment of neighboring properties.

5.3 The facility shall provide for the storage and/or disposal of waste material and manure so as to prevent unsanitary conditions and to prevent effluent containing urine and/or fecal matter from being discharged or permitted to flow over the surface of the ground.

5.4 Provide adequate shelter for the welfare of any animals. Stalls shall be of adequate size for the comfort and safety of the animal contained therein. Standing stalls are permissible.

5.5 All animals shall be maintained in a clean and healthy condition.

5.6 The facility and all portions thereof shall be maintained so as to prevent the spread of infectious or contagious diseases.

5.7 The facility shall have adequate space for the safety of group housed animals and a minimum of 7,500 square feet of free roaming space for any animal that is a member of the Equidae family which includes but is not limited to any horse, ponies, donkeys and mules.

5.8 Paddocks contain adequate shade and that they be free of glass, wire, and other materials which might cause injury to animals.

5.9 The facility shall have an adequate supply of potable water for feeding, cleaning and fire protection purposes.

## **Section 6. Location of Facilities and Limitations on Keeping Certain Animals**

6.1 Each facility and all portions thereof shall be located on suitable land. All structures shall be at least one hundred (100) feet from any wetland, one hundred (100) feet from any well, and two hundred (200) feet from any riverbank.

6.2. It is recommended that the facility be located:

- a. Twenty (25) feet of front property line;
- b. Five (5) feet of the side or rear property lines for structures under 120 square feet.
- c. Ten (10) feet of any component of a subsurface disposal system without permission of the Agent of the Board of Health.

6.3 No paddock, pen, or animal exercise area shall be located over the leaching facility of a subsurface disposal system.

6.4 It is recommended that no swine or rooster be kept on a property or premises comprised of 2 acres or less.

6.5 It is recommended that a person keep no more than twelve (12) poultry over the age of sixteen weeks on any property within a residential area of the Town.

6.6 No foxes, skunks, minks, raccoons, or similar animals shall be kept in the Town without a hearing before the Board of Health

**Section 7. Manure Storage**

7.1 It is recommended that manure be stored in such a manner and location that it does not create an unsanitary condition and so as to prevent drainage or run-off into any wetland resource area or abutting properties.

7.2 No manure storage area shall be located within:

- a. One hundred (100) feet of wells.
- b. Four hundred (400) feet of public water supply wells.

**Section 8. Interactions with Other Laws**

8.1 All facilities shall be maintained and animals shall be kept in accordance with applicable federal, state and local law. It shall be the applicant’s responsibility to ensure compliance with such laws and the issuance of a permit shall not authorize the maintenance of a facility or the keeping of animals in violation of any other applicable statute, rule or regulation.

8.2 This regulation is intended to further the objectives of and to act in concert with any existing federal, state or local laws concerning the maintenance of property, the keeping of animals and the abatement of nuisances, including but not limited to the Town’s Zoning Bylaws.

8.3 Nothing in this regulation is intended to limit or restrict the authority of the Board of Selectmen, the Board of Health, the Animal Inspector, the Building Commissioner, Conservation Commission, or any other board, commission or officer of the Town to act in accordance with federal, state and local laws within their jurisdiction, including but not limited to the authority of the Board of Health to abate nuisances in accordance with Massachusetts General Laws, Chapter 111, Sections 122-125.

8.4 In the case of a conflict between the requirements of this regulation and any other federal, state or local law concerning the maintenance of facilities and/or the keeping of animals, the more stringent requirements shall apply.

**Section 9. Variances**

9.1 The Board of Health may grant a variance from the provisions of this Regulation provided that the applicant can demonstrate that (1) the enforcement thereof would impose a substantial hardship and (2) that the same degree of health and/or environmental protection required under this Regulation can be achieved without strict application of the particular section.

9.2 Every request for a variance shall be made in writing and shall state the specific variance sought and the reason therefor. No variance shall be granted unless the applicant has notified all parties entitled to notice of hearing as set forth in Section 4.5 of this Regulation by certified mail at his own expense at least ten (10) days before the Board of Health hearing at which the variance application will be heard.

9.3 Every variance granted by the Board of Health shall be in writing and may include such conditions, safeguards and limitations as the Board of Health deems necessary to protect public

health, safety and welfare. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of the variance shall be provided by the applicant to all abutters.

## **Section 10. Enforcement**

10.1 This regulation will be enforced by the Board of Health Agent and Animal Control Officer for the Board of Health and will be subject to all enforcement rules and regulations under Somerset Town Bylaws.

10.2 Any person who violates this Regulation may be penalized by non-criminal disposition as provided by Massachusetts General Laws, Chapter 40, Section 21D and the Town's Non-Criminal Disposition bylaw. If non-criminal disposition is elected, then any person who violates the provisions of this bylaw shall be subject to penalties as follows:

- First Offense – twenty five dollars (\$25.00)
- Second Offense – fifty dollars (\$50.00)
- Third Offense – one hundred dollars (\$100.00)
- Fourth and Further Offenses – three hundred dollars (\$300.00)

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

10.4 Whoever violates any provision of this Regulation may be penalized by indictment or on complaint brought in a court of competent jurisdiction. Except as may be otherwise provided by law and as the court may see fit to impose, the maximum penalty for each violation or offense shall be one thousand dollars (\$1,000). Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

10.5 The Town may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.

## **Section 11. 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.

## **Section 12. Adoption and Effect:**

These rules and regulations were adopted by the Board of Health, Town of Somerset, Massachusetts and are to be in full force and in effect within thirty (30) and shall, before said effective date, be published in a newspaper published in this town and a copy shall be deposited in the office of the Town Clerk.