

MINIMUM STANDARDS FOR THE KEEPING OF ANIMALS

TOWN OF TEWKSBURY  
BOARD OF HEALTH

TOWN CLERK  
BOARD OF REGISTRARS  
TEWKSBURY, MA

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**1. AUTHORITY**

- 1.1. This Regulation is promulgated pursuant to the authority granted to the Town of Tewksbury Board of Health by Massachusetts General Laws (M.G.L.) Chapter 111, Section 31, which provides that "Boards of Health may make reasonable health regulations," and M.G.L. Chapter 111, Section 155.

**2. PURPOSE**

- 2.1. This Regulation is promulgated to provide minimum standards for the keeping of *animals* in Tewksbury, while protecting public health, safety and welfare.
- 2.2. This Regulation is not intended to regulate the use of land for commercial agriculture. Commercial agriculture may be limited by Town zoning bylaw to activities on parcels 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 parcels generates at least \$1,000 per acre based on gross sales dollars in the areas not zoned for agriculture in accordance with M.G.L. Chapter 40A, Section 3.

**3. DEFINITIONS**

Unless otherwise noted below, the following terms shall have the following definitions throughout this Regulation. The definition for any italicized word used in this Regulation can be found in this Section.

- 3.1. ***Abutter***: Owners of the abutting land or property within three hundred (300) feet of the *Permit Applicant's* property line, as certified by the *Town Assessor's* office. 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. If a condominium complex is within the 300 feet radius, only the agent of the condominium association will be notified. If an apartment complex is within the 300 feet radius, only the agent of the management company on record will be notified.
- 3.2. ***Aggrieved***: An *aggrieved* party is one whose rights or interests are injuriously affected by the denial of a *permit*. The party's harm must be non- speculative immediate and particularized to the *aggrieved* party flowing from the consequence of the permit denial.
- 3.3. ***Animal***: All *animals* and *livestock*, which are kept for *domesticated animals*, but excluding the following: *household pets* as defined herein; research laboratory animals otherwise regulated; and *non-exempt wild and exotic animals* as regulated by M.G.L. Chapter 131, Section 23 and 321 CMR 9.
- 3.4. ***Animal Structure***: Any structure used to house, shelter or contain *livestock* and *animals*. Any combination of materials or parts of structures.

- 3.5. **Board of Health** or **“Board”**: The Tewksbury *Board of Health* or its authorized agents.
- 3.6. **Cockerel**: Young male chicken.
- 3.7. **Corral**: Any pen or enclosure for confining one or more *animals*.
- 3.8. **Direct Abutter**: Owners or tenants of land that adjoins the side or rear lot lines of the *Registrant’s* property, as certified by the *Town Assessor’s* office.
- 3.9. **Disposal Plan**: A guidance document provided by the *Board of Health* for the disposal of dead *hens*, litter, poultry bedding, and other contaminated materials as set forth on the *Disposal Plan* attached to the *registration* or *permit*.
- 3.10. **Domesticated Animals**: *Animals* of a species of vertebrates that have been domesticated by humans so as to live and breed in a tame condition and depend on humankind for survival. *Domesticated animals* include, but not be limited to, any equine or bovine animal, goat, sheep, dog, cat, poultry or other domesticated beast or bird.
- 3.11. **Dwelling**: Any building, structure or shelter used or intended for human habitation.
- 3.12. **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* such as, but not limited to, a barn and/or stable.
- 3.13. **Fencing**: Enclosure material installed for the purpose of privacy or *livestock* and/or *animal* containment.
- 3.14. **Generally Acceptable Agricultural Practices (GAAPS)**: 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, but are not an exhaustive list, that can be consulted to establish compliance with the MDAR GAAPs: MDAR<sup>1</sup>; the USDA Natural Resource Conservation Service<sup>2</sup>; the MA Association of Conservation Districts<sup>3</sup>; UMASS Extension<sup>4</sup>; UNH Cooperative Extension<sup>5</sup>; and UNH Cooperative Extension Housing and Space Guidelines<sup>6</sup>.
- 3.15. **Health Department** or **“Department”**: The Tewksbury *Health Department* or its authorized agents.
- 3.16. **Health Director** or **“Director”**: The *Director* of the Tewksbury Health *Department*.
- 3.17. **Hen**: Adult female chicken.
- 3.18. **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.

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<sup>1</sup> <http://www.mass.gov/eea/agencies/agr/>

<sup>2</sup> <http://www.nrcs.usda.gov/wps/portal/nrcs/site/ma/home/>

<sup>3</sup> <https://massacd.wordpress.com/>

<sup>4</sup> <http://ag.umass.edu/resources/agriculture-resources>

<sup>5</sup> <https://extension.unh.edu/>

<sup>6</sup> [https://extension.unh.edu/resources/resource/471/Housing\\_and\\_Space\\_Guidelines\\_for Livestock](https://extension.unh.edu/resources/resource/471/Housing_and_Space_Guidelines_for_Livestock)

- 3.19. **Livestock:** *Animals* kept for agricultural purposes, including but not limited to poultry and other fowl. For the purposes of this Regulation, the definition of *Livestock* shall not include *roosters* or *cockerels*.
- 3.20. **Manure Management Plan:** A plan for the handling of manure that shall address cleaning, composting, storage, utilization and removal of manure.
- 3.21. **Permit:** A *permit* issued by the *Health Department* for the keeping of one or more *animals* in accordance with the provisions of this Regulation.
- 3.22. **Permit Applicant** or "**Applicant**": A person or entity who applies for a *permit* to keep one or more *animals* under this Regulation.
- 3.23. **Permit Holder:** Any person or entity who has met the conditions of this Regulation and has received a *permit* issued by the *Health Department* to keep one or more *animals*.
- 3.24. **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.
- 3.25. **Pest Management Plan:** A plan which adequately defines the measures that shall be taken to minimize the presence of rodents, insects and pests.
- 3.26. **Plot Plan:** A plan that shows the dimensions of the area where *animals* will be kept. A *plot plan* must also include the locations of the primary residence, any and all structures, abutting structures, *fences*, *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 review by the *Health Department* and *Board of Health*.
- 3.27. **Registrant:** A person or entity who submits a *registration* form for the keeping of *hens* or rabbits under Section 5.2 of this Regulation.
- 3.28. **Registration:** A *registration* issued by the *Health Department* for the keeping of *hens* or rabbits under Section 5.2 of this Regulation.
- 3.29. **Registration Holder:** Any person or entity who has met the conditions of this Regulation and has received a *registration* issued by the *Health Department* to keep *hens* or rabbits.
- 3.30. **Rooster:** Adult male chicken.
- 3.31. **Storage of Feed Plan:** A plan for the storage of *animal* feed which adequately defines the measures that shall be taken by the owner to ensure that the feed is stored in a dry, vermin- and rodent-free area.
- 3.32. **Town:** The Town of Tewksbury.
- 3.33. **Usable Area:** Land area suitable for the raising of *animals* such as pastures, fields and wooded uplands. This area does not include *wetlands*, *dwelling*s, or any other area(s) as may be restricted by applicable federal, state and local laws, regulations, bylaws, guidelines and other requirements.
- 3.34. **Wetlands:** Land area or surface area so defined by the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and the regulations promulgated by pursuant thereto at 310 CMR 10.00 as defined by the Tewksbury Wetland Protection Bylaw or pursuant to Section 404 of the Federal Water Pollution Control Act, 33 U.S.C. 1341.

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- 3.35. **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 by Massachusetts General Laws Chapter 131, Section 23 and 321 CMR 9.00.

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#### 4. GENERAL REQUIREMENTS

- 4.1. The following animals are prohibited within the *Town*.
- 4.1.1. *Roosters, cockerels* and non-exempt *wild and exotic animals*, in accordance with M.G.L. Chapter 131, Section 23 and 321 CMR 9.00.
- 4.2. All *Registrants, Permit Applicants, Registration Holders* and *Permit Holders* shall meet the criteria set forth in Sections 4 and 5 of this Regulation.
- 4.3. All *registration* forms and *permit* applications must be submitted to the *Health Department* for review and approval, and shall comply with the criteria set forth in Section 5.2 for registrations or Section 5.3 for permits.
- 4.4. All *facilities* for the keeping of *animals* shall be securely *fenced* so as to prevent the escape of *animals* therefrom.
- 4.5. All permitted *animals* and registered *hens* or rabbits must be confined to the property for which a permit is granted or *registration* obtained unless the *Permit Holder* or *Registration Holder* has documented permissions in writing for any and all arrangements for such *animals* to be temporarily kept elsewhere (i.e. for grazing, pest control, etc.).
- 4.6. *Household Pets* are exempt from this Regulation with the exception that the *Health Department* may impose a permit requirement in situations where *animals* are kept in unreasonable numbers or in conditions that may result in a public nuisance or recognized hazard to the health and welfare of the *Town*.

#### 5. REGISTRATION AND PERMIT REQUIREMENTS

- 5.1. Unless permitted by *registration*, pursuant to Section 5.2 of this Regulation, a *permit* is required for anyone keeping *animals* as defined in this Regulation except on commercial farms that meet the requirements of M.G.L. Chapter 40A, Section 3 and/or M.G.L. Chapter 128, Section 1A.
- 5.2. **Registration:** At the discretion of the *Health Director*, up to twelve (12) *hens* or between two (2) and four (4) adult rabbits may be kept by the owner of the *hens* or rabbits without the need for a *permit*, provided that they are registered with the *Health Department* and provided that the person who is the owner of, and responsible for, the *hens* or rabbits has complied with all of the requirements of Section 5.2 of this Regulation. Failure to comply with any of the requirements of this Regulation will result in the immediate loss of the right to keep the *hens* or rabbits by registration rather than *permit*. No *registration* is required for one rabbit.
- 5.2.1. Complete and submit a *registration* form obtained from the *Health Department* on which the *Registrant* will be asked to:
- 5.2.1.1. Sketch a *Plot Plan*; and
- 5.2.1.2. Provide a written description of how the *Registrant* will handle:
- 5.2.1.2.1. *Manure Management*; and

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- 5.2.1.2.2. *Storage of Feed*; and
- 5.2.1.2.3. *Pest Management*.
- 5.2.1.3. Acknowledge a provided *Disposal Plan*; and
- 5.2.1.4. Pass a site inspection for the keeping of the *hens* or rabbits conducted by an Animal Inspector; and
- 5.2.1.5. Notify *direct abutters*.
- 5.2.2. **Fees:** Registration fee as indicated on the current *Health Department's* schedule of fees as may be amended from time and time.
- 5.2.3. **Expiration/Renewal:** *Registrations* issued have no expiration date and do not require renewal.
  
- 5.3. **Permit:** An application for a *permit* for the keeping of *animals* shall be submitted on a form obtained from the *Health Department* for each location where *animals* are kept. The *Health Department* will not review a *permit* application package until the following items have been submitted to the *Health Department*:
  - 5.3.1. A completed *permit* application that includes:
    - 5.3.1.1. Name, mailing address and contact information for the *Applicant*; and
    - 5.3.1.2. Street address of the property where animals will be kept if different than the *Applicant's* address; and
    - 5.3.1.3. Name, mailing address and contact information of all owners of the property where animals will be kept; and
    - 5.3.1.4. Number and species of *animals* to be kept.
      - 5.3.1.4.1. If the *Permit Holder* wants to increase the number and/or species of *animals* to be kept prior to the end of the *permit* year, the *Permit Holder* must notify the *Health Department* and attend a public hearing seeking modification of the *permit* in accordance with Section 7.3 of this Regulation.
    - 5.3.1.5. A *Plot Plan*; and
    - 5.3.1.6. A written management plan for the following:
      - 5.3.1.6.1. *Manure Management*; and
      - 5.3.1.6.2. *Storage of Feed*; and
      - 5.3.1.6.3. *Pest Management*.
    - 5.3.1.7. Acknowledgement of a provided *Disposal Plan*; and
    - 5.3.1.8. Certified *Abutters* List from the Town Assessor's Office; and
    - 5.3.1.9. Successful site inspection for the keeping of *animals* conducted by an Animal Inspector; and
    - 5.3.1.10. Payment of application fee.
  - 5.3.2. **Fees:** Application fee as indicated on the current *Health Department's* schedule of fees as may be amended from time and time.

- 5.3.3. **Transference:** Said *permit* shall not be transferable as to other *animals*, or assignable or transferable for the use of other persons or the use of other premises
- 5.3.4. **Expiration/Renewal:** Said *permit* shall expire on April 30th of each year, unless sooner revoked or suspended by the *Board of Health* 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) calendar days prior to the expiration of *permit*. If a *Permit Holder* (under the prior regulation or this Regulation) fails to timely apply for a renewal of the *permit*, said *Permit Holder's* application shall be treated as an application for a new *permit*. The *Permit Holder* shall notify the *Health Department* of any changes in the number and type of species authorized by the *permit* during the *permit* year.
- 5.3.5. If the *animals* to be kept under a *permit* or a *registration* will not be confined to one property, then the owner of any other property where the *animals* will be kept or allowed to wander, graze or roam, must be a co-applicant of that *permit* or *registration* application.
- 5.3.6. All new applications for a *permit* and all *permit* requests submitted after implementation of this Regulation will be considered by the *Health Department* only after the *Board of Health* conducts a public hearing in accordance with Section 7.3 of this Regulation and the policies adopted by the *Board*.
- 5.3.7. 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 health or welfare and would not endanger the health or safety of the *Town*, and that all applicable requirements of this Regulation have been satisfied. The *Health Department* may deny a *permit* application if the *Applicant* does not satisfy such burden. The *Health Department* or *Board of Health* may impose conditions, safeguards and other limitations on a *permit* consistent with the public health, safety and welfare.
- 5.4. **Compliance:** A condition of any *permit* or *registration* issued under this Regulation is that the *Permit Holder* or *Registration Holder* must:
- 5.4.1. Allow an Animal Inspector to conduct site inspections of the subject property, both during the *registration* or *permit* application process and afterwards at periodic times established by the *Board of Health* and/or following a complaint received by the *Health Department*: and
- 5.4.2. Comply with all directives of *Board of Health*, *Health Department*, and their authorized agents, both during the application process and after issuance of a *registration* or *permit*: and
- 5.4.3. Ensure that the actual locations of, including but not limited to, any and all animal structures, pens, coops, fences, manure piles, feed storage must be located on the property as shown on the *plot plan* attached to the *registration* or *permit*: and
- 5.4.4. Comply with the submitted manure management, feed storage, pest control management plans and the acknowledged disposal plan.
- 5.4.5. Follow *Generally Acceptable Agricultural Practices*; and

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- 5.4.6. Comply with MDAR's Division of Animal Health requirement that if an animal contracts a disease designated in its reportable disease program, it must be reported to MDAR's reportable disease program. The *Permit Holder* or *Registration Holder* must also notify the *Health Department*: and
- 5.4.7. Comply with all applicable federal, state and local laws, regulations, bylaws, guidelines and other requirements.
- 5.5. **Failure to Comply:** Failure by the *Permit Holder* or *Registration Holder* to comply with the criteria of Section 4 and Section 5 of this Regulation will be deemed a violation and could result in the revocation or suspension of any and all *permits* and *registrations* in accordance with Section 6 of this Regulation.

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## 6. ENFORCEMENT

- 6.1. If there is a violation of this Regulation, the *Health Department* may issue a written order (Order) to the person or persons having control of the premises and to the *Permit Holder* or *Registration Holder* to correct the offending deficiencies.
- 6.2. If the *Permit Holder* or *Registration Holder* fails to comply with an Order, or if the *Health Department* or its authorized agent determines that the severity of the situation so warrants, the *Board of Health* may schedule a Show-Cause hearing for the purpose of determining whether or not the *permit* or *registration* should be revoked.
- 6.3. If the *Health Director* determines that there is an immediate risk or threat to the public health, safety or welfare, the *Director* may order that the offending conditions be immediately abated at the sole expense of the *Permit Holder* or *Registration Holder*, including removal, placement, quarantine or destruction of any or all permitted *animals* or registered *hens* and rabbits. Enforcement of this provision may include establishing a lien against the property or in any manner provided in M.G.L. Chapter 40, Section 21D.

## 7. HEARINGS

- 7.1. A *Registrant* may request to appear before the *Board of Health*, by filing a written petition with the *Health Department* within seven (7) calendar days of receipt of an adverse decision on registration, to ask the Board to make a determination of whether the *registration* was properly rejected and registrant should proceed by way of permit application
- 7.2. Any *Person* to whom an Order has been served pursuant to Section 6 above, shall have the opportunity to request to come before the *Board of Health*. A request must be made in writing and submitted to the *Health Department* within seven (7) calendar days after the Order has been served or is considered waived. 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, the person served with the Order may be given an opportunity to present evidence and to show why an Order should be modified, withdrawn, or sustained.
- 7.3. Notice of all public hearing shall be provided, at the requester's expense, by first class mail to all *Abutters* and by legal notice in a local newspaper of general circulation. Both methods of notice shall provide at least fourteen (14) calendar days' notice prior to the public hearing. The requester shall obtain a Certified

*Abutters* List from the Town Assessor's Office, and submit it to the *Health Department*. Such certification shall be conclusive for all purposes.

- 7.4. Any person *aggrieved* by the *permit* decision of the *Board of Health* with respect to any *permit* requirement, imposed under this Regulation may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

## 8. ENFORCEMENT REMEDIES

- 8.1. This Regulation may be enforced after failure to comply with an Order by the *Board of Health*, in the manner provided under M.G.L. Chapter 40, Section 21D and shall be punishable as set forth in said section. Each twenty-four (24) hour period during which a violation exists shall constitute a separate offense and a separate and additional fine shall be imposed for each twenty-four (24) hour period during which a violation exists.
- 8.2. Enforcement of conditions, restrictions and remedies imposed on any *Permit Holder* or *Registration Holder* shall be binding on assigns, successors in interest and the penalties for violation thereof may be assessed against them in the same manner as against the original *Permit Holder* or registrant.
- 8.3. Failure to obtain required *permit* or *registration* shall result in an Order for the immediate cessation of any activity and the removal of any and all accoutrements associated with the activity on a date and time certain and shall be punishable in the manner provided under M.G.L. Chapter 40, Section 21D at the sole expense of the owner of the property indexed with the Registry of Deeds at the time of the violation.
- 8.4. If no other punishment is prescribed for a violation of any rule or regulation adopted pursuant to state law for this Regulation, such violation may be punished in the manner provided in M.G.L. Chapter 40, Section 21D.

## 9. APPLICABILITY

- 9.1. The effective date of this Regulation shall be the first business day of the month following the date that this Regulation was approved by a majority vote of the *Board of Health* as stated below.
- 9.2. This Regulation shall apply to new *permit* and *registration* applications filed on or after the effective date.
- 9.3. This Regulation supersedes all previous regulations adopted by the *Board of Health* relative to the keeping of *animals*, including without limitation the *Board's* Regulations for Keeping of Animals that was adopted on November 21, 2002.
- 9.4. All *permits* issued for the keeping of *animals* prior to the adoption of this Regulation shall be valid until April 30, 2018. All *permits* issued prior to the adoption of this Regulation must be renewed by April 30, 2018, and all such renewals shall be subject to the terms of this new Regulation.

## 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 but shall continue in full force and effect.

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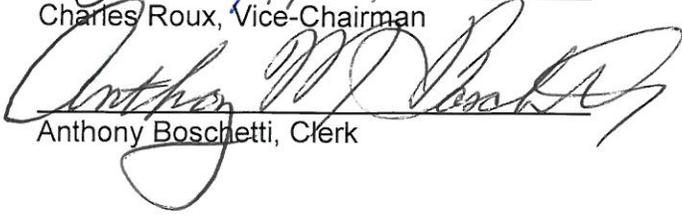
Approved at the Tewksbury Board of Health Meeting held on February 15, 2018, and shall take effect immediately.



Raymond Barry, Chairman



Charles Roux, Vice-Chairman



Anthony Boschetti, Clerk



George Ferdinand, Member



Robert Scarano, Member

January 18, 2018 - Regulations adopted and shall take effect on February 1, 2018.

February 15, 2018 – Section 5.3.5 Amended

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