

**DRAFT** Regulation of the City of Haverhill Board of Health  
Minimum Standards for the Keeping of Domestic Animals

1. AUTHORITY:

This Regulation is pursuant to the authority granted to the City of Haverhill 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 domesticated animals in the City of Haverhill 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 City of Haverhill.
- b. This regulation is not intended to regulate the use of land for commercial agriculture. Commercial agriculture may be limited by City of Haverhill Zoning Chapter 255 to activities 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 annually generates at least \$1,000 per acre based on gross sales dollars in areas not zoned for agriculture in accordance with Massachusetts General Laws Chapter 40A, Section 3.

3. DEFINITIONS:

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

**Abutter:** Owners of the abutting land or property within (TBD) 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 animals 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.

**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 City of Haverhill Board of Health and/or its designated agent(s).

**Cockerel:** Young male chicken.

**Coop:** a structure for the keeping or housing of poultry or other types of fowl

Corral: Any pen or enclosure for confining one or more animals.

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.

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, stable, corral, coop etc.

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 (GAAO's). The following are some potential resources, but are not an exhaustive list, that can be consulted to establish compliance with the MDAR GAAPs: MDAR, <http://www.mass.gov/eea/agencies/agr/>: the USDA National Resource Conservation Service, <http://www.nrcs.usda.gov/wps/portal/nrcs/site/ma/home/>: The MA Association of Conservation Districts, <https://massacd.wordpress.com/>: UMASS Extension, <http://ag.umass.edu/resources/agriculture-resources>: UNH Cooperative Extension, [https://extension.unh.edu/resources/471/Housing and Space Guidelines for Livestock](https://extension.unh.edu/resources/471/Housing_and_Space_Guidelines_for_Livestock)

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.

Keeping of Animals Permit or "Permit": A permit issued by the Board for the keeping on 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 Management Plan (MMP): A plan for the handling of manure. The MMP shall address cleaning, composting, storage, utilization and removal of manure.

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 including a city, town, county, or other governmental unit, owning property or carrying on an activity regulated by this regulation.

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.

Rooster: An adult male chicken.

Stable: An accessory building or structure used for the shelter and/or feeding of one or more animals.

Stabling of Horses: Shall follow the Regulation for Stabling of Horses

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

Swine: Shall follow the City of Haverhill Board of Health Regulations for farms with Pigs and the Keeping of Pigs

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 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 [city/town] Wetlands Protection [ordinance/bylaw] 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.

#### 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 D and E of this regulation.

**b. Structures must comply with the applicable setback requirements for the zoning district in which such structures are located as set forth in the City of Haverhill Zoning Ordinances,** aside from protection accorded by Massachusetts General Law, Chapter 40A, Section 3 and the Wetlands Protection Act, 310 CMR 10.00.

**\*\*[Note: in cities and/or towns where homes are in areas too densely populated, a city or town should require a square foot land area requirement and distance from abutter's dwellings. TBD**

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. In accordance with Massachusetts General Law, Chapter 111, Section 125A, “. . . the odor from the normal maintenance of livestock or the spreading of manure upon agricultural and horticultural or farming lands, or noise from livestock or farm equipment used in normal, generally accepted farming procedures or from plowing or

cultivation operation upon agricultural and horticultural or farming lands shall not be deemed to constitute a nuisance.” This law applies to commercial farming operations.

## 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. The keeping of less than (TBD) chickens shall not require a permit. (This is a Board decision)

**C. The keeping of roosters or cockerels and non-exempt wild animals in accordance with MGL Chapter 131, Section 23 is prohibited within the City of Haverhill. The keeping of roosters or cockerel will be permitted on a case-by-case basis. TBD**

D. Application(s) and requirements for a permit shall be submitted on-line under the Health Department permit site. Such application(s) will be deemed incomplete if any information, plans, fees or required documents is missing.

- i. Names, mailing address, phone number and email of all owners of the property.
- ii. Location- street address of the premises to be used.
- iii. Number and species of animals to be kept.
  - i. If the permit holder intends to increase the number and 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 the dimensions of the area where animals will be kept. Also required on the plot plan are the locations of the primary residence, structures (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.
- v. A written management plan for the following:
  - i. Manure Management
  - ii. Storage of Feed
  - iii. Pest Management
- vi. Application Fee (TBD)

E. The 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.

F. The permit shall expire on December 31<sup>st</sup>, unless sooner revoked or suspended by the Board after a hearing.

G. 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.

H. If the permit holder is not the owner of the property, notarized documentation must be provided indicating that the property owner is not opposed to the keeping of animals on the property.

I. All permits issued prior to the effective date of this regulation are valid and may be renewed prior to the effective date of this regulation, subject to the prior regulation, provided conditions and agreements contained in the original application have changed, and that no conditions exist that would be injurious to the public health, safety or welfare. All renewals of permits subsequent to the effective date of this regulation shall be subject to this regulation. (“Grandfathering” section. This section should be deleted if there is no current regulation or permit already in place.)

## 6. HEARINGS

A. All (“new applications and variance requests” or “variance requests” choose one option) will be considered by the Board only after the Board conducts a public hearing.

B. Notice of the public hearing relative to shall be provided to all abutters by first class mail at the applicant’s expense and by legal notice in a local newspaper of general circulation by the City of Haverhill Board of Health. Both forms of 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 Haverhill Board of Assessors with the “application or variance request” or “variance request” choose one option and a sworn statement that the applicant has mailed notice to each abutter by first class mail.

C. The applicant must demonstrate that the issuance of a permit shall not be detrimental in any way to the public welfare and would not endanger the health or safety of the municipality, 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. The permit applicant acknowledges that the MDAR’s Division of Animal Health requires that if an animal contracts a disease designated in its reportable disease program, it must be reported to MDAR’s reportable disease program.

E. 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.

## 7. CONSTRUCTION AND CONSTRUCTION CHANGES

A. 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.

B. It is the responsibility of the applicant to comply with City of Haverhill Zoning Ordinance and applicable sections of the building code when conducting construction or construction changes referenced in Section A above.

## 8. 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. In accordance with Massachusetts General Law Chapter 111, Section 31, any violation of this regulation shall be subject to fines. 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. Arrangements for re-homing the animals shall accompany any suspension, revocation or denial of a permit.

E. 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 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.

## 9. VARIANCES

A. Variance to any section of this regulation may be requested in writing to the Board. When such a request is received, a hearing shall be scheduled in accordance with Section 5 above.

B. 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 or the environment.

C. 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.

10. 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.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

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Chairperson, Peter Carbone

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Board member, Romie Mundy M.D.

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Board member, Diana Sherlock

Effective date: \_\_\_\_\_ **TBD** \_\_\_\_\_