

REVISED REGULATION FOR THE KEEPING OF ANIMALS PERMITS AND STABLE/COOP LICENSES

TOWN OF HAMILTON BOARD OF HEALTH

Effective September 1, 2024, the Board of Health of the Town of Hamilton, acting under the authority of the General Laws and Amendments of the Commonwealth of Massachusetts, as authorized by M.G.L., Chapter 111, Sections 31 and 155, hereby rescinds Board of Health Regulation Chapter VIII, MINIMUM STANDARD FOR KEEPING OF ANIMALS and replaces it with the following. The following revised regulation, rules, and standards are deemed by the Board of Health to help ensure the health and welfare of all animals kept in the Town of Hamilton and to provide minimum standards adequate to protect the public health and comfort and the environment in the interests of present and future residents of Hamilton.

SECTION 1. DEFINITIONS

Animal: Any animal such as but not limited to bovids, camelids, equines, poultry, bird, reptile, fish, horse, pony, cow, bull, cattle, sheep, goat, and swine but excluding typical household pets (including dogs, cats, birds, fish, reptiles, and amphibians if they are kept as household pets), which are housed primarily inside a residential home.

Bird: Shall mean any warm-blooded vertebrate with feathers and wings, including but not limited to parrots, crows, falcons, game birds, and peacocks.

Board of Health (BOH): The legally designated health authority of the Town of Hamilton, Massachusetts. For the purpose of these regulations, it includes the Board of Health members, their agent, the Hamilton Animal Inspector, Dog Officer, Police Officers, or other person authorized by the Board to act on their behalf.

Bovid (or Bovidae): Any large animal belonging to the biological family of cloven-hoofed, ruminant mammals that includes cattle, yaks, bison, buffalo, antelopes (including goat-antelopes), sheep and goats.

Camelid (or Camelidae): Any large animal belonging to the biological family of even-toed ungulates, including alpacas, llamas, vicuñas, dromedary and Bactrian camels.

Coop: Shall mean any enclosure, cage, building, lot, structure or premises or any portion thereof where Poultry or Birds of any species are kept or maintained for any purpose.

Domestic Animal: Any pet or an animal treated such that either by nature or nurture has become dependent upon human intervention for survival.

Dwelling: A structure inhabited by people.

Equine: Any large animal of the equine family, including but not limited to

horses, ponies, miniature horses (minis), mules, and donkeys.

Facility: Any corral, building, dry-lot, enclosure, paddock, coop, run, shed, stable, stall, or structure used for the keeping or restraining of any animal or for storage of food supplies and/or equipment normally associated with the keeping of animals, with the exception of such of those animals that are subject to regulation under the provisions of:

1. M.G.L. Chapter 129 Section 39A pertaining to pet shops; and
2. M.G.L. Chapter 140 Sections 136A through 175 pertaining to dogs.

Farm: Land defined as in agricultural use pursuant to M.G.L. Chapter 61A Section 1.

Feed: A food mixture or preparation used for consumption by Animals kept at a Facility.

Flooding: A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland or tidal waters, or from the unusual and rapid accumulation or runoff of surface waters from any source, including extended heavy rain or mudslides, which are precipitated by accumulations of water on or under the ground.

KOA: Keeping of Animals.

Large Animal: Equines, bovines, camelids, and any other such large animal.

License: Written authorization from the Board of Health to construct or maintain a structure for the keeping of animals.

Malodor: A noxious or offensive odor.

Manure: Excrement and used bedding from any Animal as defined herein.

Original: The first time a License or Permit is issued. For example, an application for a new permit for a different Animal as a replacement for a previously permitted one will not be considered original.

Owner: Every person who alone, or jointly, or severally with others:

1. Has legal title to any Facility, or
2. Has care, charge, custody, or control of any Facility as agent, executor, executrix, administrator, 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 were Owner.

Paddock / Pasture: A fenced plot of land for turnout, grazing, feeding, and/or exercising Animals.

Permit: Written authorization from the Board of Health to keep Animals.

Person: Shall mean any individual, partnership, corporation, firm, association, or group, including a city, town, county, or other governmental unit, owning or leasing an Animal (or Animals) or property or carrying on activity, which Animals, Property, or activity is subject to these regulations.

Poultry: All domesticated or semi-domesticated fowl, including but not limited to chickens, turkeys, ducks, guinea fowl, geese, pheasants, partridges, doves and pigeons.

Property: The land to which a Person or Owner has legal title or which a Person leases and the boundaries of which can be clearly depicted on a scaled plot plan and on which Animals are to be kept.

Runoff: Any liquid or solid suspended in liquid that flows over the surface of the ground.

Shelter: The minimum housing required for safe and hygienic keeping of animals.

Small animal: Rabbits, birds, poultry, and other similar small Animals.

Stable: A building or structure in which animals are housed and/or fed.

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

Suitable Land: Land with a natural drainage class defined as excessively drained, somewhat excessively drained, well drained, or moderately well drained. Suitable land shall be land that is not a wetland as defined under M.G.L. Chapter 131, Section 40, 310 CMR 10.00, or the Town of Hamilton By-Law and any applicable regulations and that is not subject to flooding.

Swine: Any hoofed animal of the porcine species.

Unsanitary: The state of being of a facility or land, which, in the opinion of the Board of Health, is conducive to, or results in excess of: (1) breeding of flies; (2) creation of malodors; (3) vermin infestation; (4) liquid effluent; (5) runoff; (6) disease carriers; (7) noise; (8) dust in such concentration and of such duration as to:

- a. be injurious or, on the basis of current information, potentially injurious to human health, or
- b. unreasonably interferes with the comfortable enjoyment of life and property.

The foregoing list of conditions shall be non-exclusive, and the Board of Health reserves the right to determine that Facilities or land is unsanitary on a case-by-case basis.

Vermin: Any of various destructive or disease-spreading insects, rodents or small animals including, but not limited to, flies, mosquitoes, termites, cockroaches, lice, mice, rats, and other similar species.

Wetland: As defined under M.G.L. Chapter 131, Section 40, 310 CMR 10.00, the Wetlands Protection Act, and Town of Hamilton By-Law, Chapter 6, or other local regulations, as amended from time to time.

SECTION 2. KEEPING of ANIMALS PERMIT

- 2.1 A Keeping of Animals ("KOA") Permit issued by the Hamilton Board of Health shall be required for the keeping of Animals as defined herein, on any property in the Town of Hamilton.
- 2.2 A KOA Permit application shall be accompanied by payment of the applicable fee as may be determined by the Board of Health from time-to-time; a certificate of inspection by the Board's Agent; a plot plan showing all lot lines, fences, dwellings, structures, wells, and septic systems; the location where the animals will be kept; the dimensions of the area where the animals will be kept; the location and size of all stables, coops and other shelters that will be used for the keeping on animals, and; such other information as may be required by the Board.
- 2.3 KOA Permits are valid from September 1 through August 31. A KOA Permit must be renewed annually and is non-transferable. Applications for renewal for the following year must be received by July 1 of the current year. If the application for renewal is complete, it may be administratively approved by the Board's Agent after inspection. If the Agent, in their sole discretion, decides that the renewal application must be approved by the Board, the hearing requirements in Section 12 shall apply. If an applicant is aggrieved by the Agent's decision, the Applicant may request a hearing before the Board within seven (7) days of receipt of the Agent's decision. After conducting a public hearing in accordance with the procedures in Section 12, the Board may affirm, rescind or modify the Agent's decision, and the Board's decision shall be final.
- 2.4 In determining whether to grant or renew a KOA Permit, the Board will consider the criteria set forth in this Regulation.
- 2.5 A KOA Permit shall be kept on the premises for which it is issued and shall be produced upon demand of the Hamilton Animal Inspector and any agent or member of the Hamilton Board of Health.
- 2.6 Animals not normally kept (normally kept Animals are those listed in the definitions in Section 1), including but not limited to feral animals, shall not be permitted except by written consent of the Board of Health and other approving authorities.
- 2.7 EXCEPTION - A KOA Permit is not required of a Person solely in the case that a Person has a legal boarding agreement for their animal with another Person or Owner who possesses a currently valid KOA Permit and Stable License.

SECTION 3. STABLE/COOP LICENSE

- 3.1 Any Person who:
- a) proposes to remodel a building or portion thereof to be used as a Stable or Coop, or
 - b) proposes to renovate, alter or enlarge any existing Stable or Coop, or
 - c) proposes to construct a new building which is to be used in whole or in part as a Stable or Coop
- shall, prior to such remodeling, renovation, alteration, enlargement, or construction, submit plans thereof to the Board of Health for approval. No Person or Animal shall occupy or use a Stable or Coop unless it has been licensed by the Board of Health.

3.2 Each Stable or Coop shall be located on suitable land as defined herein.

3.3 The original License application under this Regulation shall be accompanied by a plot plan of the Property drawn to scale (and including a scale) depicting and locating the following: (a) all Property boundaries; (b) stable(s) and paddock(s); (c) manure storage area; (d) any septic system; (e) private or public wells; (f) surface watercourses; (g) any wetlands on or adjacent to the Property; (h) abutting public roads; (i) any dwellings located on abutting properties. The application plot plan must clearly show and delineate the distances of all of the above components from one another and from all abutting Property lines and abutting streets and public ways.

3.4 Application for a Stable or Coop License shall be made to the Board and/or its Agent on a form provided by the Board.

3.5 A Stable License or Coop License shall be issued by the Board of Health only after an inspection of the facility by the Board and/or its Agent and payment of the applicable fee. An application submitted separately from the KOA Permit application shall be considered in accordance with the procedure set forth in Section 12 of this Regulation.

3.6 Stable or Coop Licenses are valid from September 1 through August 31. Stable and Coop Licenses must be renewed annually in accordance with the procedures set forth in Section 2.3 of this Regulation, and are non-transferable. Applications for renewal for the following year must be received by July 1 of the current year and must be submitted at the same time as the application for renewal of the KOA permit. Renewal applications shall be processed in accordance with Section 2.3 of this Regulation.

SECTION 4. FACILITIES and MAINTENANCE REQUIRED for a KEEPING of ANIMALS PERMIT and/or a STABLE/COOP LICENSE

4.1 A Person or Owner holding a Keeping of Animals Permit or a Stable/Coop License shall:

1. Take all reasonable precautions to, among promoting other public health and safety standards, (a) prevent the spread of infectious or contagious diseases; (b) prevent the infestation of the animals and the premises with external parasites or vermin and (c) prevent the transmission offsite of malodors.
2. Maintain all manure and other animal waste byproducts in such a way that they do not become a nuisance to abutters or the public. No manure storage area shall be located within:
 - a. 100 (one hundred) feet of wetlands or watercourse as defined by M.G.L. Chapter 131, Section 40.
 - b. 100 (one hundred) feet of a lot line or public way without special Board of Health permission.
 - c. 100 (one hundred) feet of private wells for potable water.
 - d. 400 (four hundred) feet of public or semi-public water supply wells per MassDEP regulation.
3. Choose stockpile locations to maximize the distance from, and minimize the impacts on, abutting properties and watercourses and with due consideration of slopes and prevailing winds.
4. Not willfully or through negligence, cause, suffer, allow, or permit drainage or liquid effluent containing urine and/or fecal matter from a horse or horses, or other animals, to be discharged in runoff, or to flow on or through the surface of the ground onto a neighboring property, a public way, wetland or watercourse or

create any unsanitary condition, which in the opinion of the Board of Health is conducive to, or results or may result in excess of breeding of flies, creation of malodors, vermin infestation, liquid effluent, runoff, disease carriers, noise, dust in such concentration and of such duration as to be a nuisance or potentially injurious, or unreasonable interfere with the comfortable enjoyment of life and property. If a violation of any of these standards occurs, the Board may take enforcement action as set forth in Section 17 of this Regulation. .

5. Keep all stalls and bedding clean, dry, and free from accumulated manure, and have ample bedding and be treated as necessary to control odor and prevent the attraction and breeding of flies.
6. Store grain in moisture-proof, rodent-proof containers.
7. Handle and treat manure and soiled bedding as necessary to prevent excess odors and the attraction and/or breeding of flies and/or vermin.
8. If required by the Board or its agent, treat manure with lime or other odor reducing agents to minimize odors, and/or be treated for insect control.
9. Provide an adequate, dry shelter for the Animals maintained on the premises.
10. Ensure that box stalls, if utilized, are large enough to enable any equine or camelid or bovine to stand up and lie down.
11. Provide Shelter in outdoor holding and grazing areas if any large animal is kept outdoors for more than eight hours and no natural shelter exists.
12. Locate no paddock, pen or animal exercise area over the leaching facility of a subsurface sewage disposal system without permission of the Board of Health.

SECTION 5. KEEPING of LARGE ANIMALS (Equines, Bovines, Camelids)

5.1 Property area requirements for the keeping of Large Animals shall be a minimum of one acre or 43,560 square feet. One large animal shall be allowed on the first acre of suitable land. An additional one-half acre (21,780 square feet) of suitable land shall be required for each additional large animal, provided that the granting of such permit will not adversely affect the public health, safety and welfare. More than three large animals may be permitted to be kept on lots containing more than two acres, provided that lot location and dimensions are determined by the Board of Health, in its sole judgment, to provide sufficient space for the safe keeping of said Animals, and provided that the granting of such permit will not adversely affect the public health, safety, and welfare.

5.2 Under no circumstances shall a Large Animal be allowed to roam free off the Owner's premises; nor may it be left tethered, unless attended by a responsible person.

5.3 Fencing so as to adequately contain the Animals and for the protection of persons and contiguous property shall be constructed of sturdy material visible to the Animals, such as post and board or split rail or appropriate wire; barbed wire or similar wire shall not be used.

SECTION 6. KEEPING of POULTRY and BIRDS

6.1 The KOA Permit for Poultry or Birds shall distinguish between Poultry or Birds permanently cooped and Poultry or Birds allowed free flight. Every effort and precaution shall be taken to minimize Poultry or Birds flying or roosting on, above, within, or proximate to abutting properties. It shall be adequate cause for revoking a KOA Permit if the flying of Poultry or Birds interferes with the comfortable enjoyment of surrounding properties.

6.2 No rooster shall be kept unless the Permit so specifies. It shall be adequate cause for denying or revoking a Permit to keep a rooster if one or more abutters complain of its presence by reason of noise.

SECTION 7. KEEPING of SWINE

Swine may be kept in accordance with the regulations set by the Commonwealth of Massachusetts in 330 CMR 11 and 330 CMR 35.

SECTION 8. KEEPING of BEES

Hives shall be kept a minimum of (100) one hundred feet from any abutting dwelling or dwelling unit, and a minimum of (50) fifty feet from any of any property line or public way.

SECTION 9. NUMBER of ANIMALS per PROPERTY and FACILITY SETBACKS

9.1. No person shall keep more than 1 equine, 1 bovine (except goats and sheep), 1 camelid, 2 goats, 2 sheep, 2 swine, 5 geese, 5 ducks, 10 rabbits, 10 poultry, or 10 birds on a Property unless that Property is at least one (1) acre in size.

9.2. Any Facility for the keeping of Large Animals shall be a distance of at least:

- (a) 50 feet from any abutting property line.
- (b) 100 feet from any wetland or watercourse.
- (c) 100 feet from any abutting property dwelling.
- (d) 100 feet from any well used as a supply of drinking water.
- (e) 10 feet from any part of any individual sewage disposal area.
- (f) 50 feet from any public way.

9.3 Any Facility for the keeping of Poultry and Birds shall be a distance of at least:

- (a) 5 feet from any abutting property line
- (b) 50 feet from any abutting property dwelling
- (c) 100 feet from any well used as a supply of drinking water.
- (d) 10 feet from any part of any individual sewage disposal area.

SECTION 10. KEEPING OF ANIMALS IN THE SCHOOL SYSTEM

These Regulations in their entirety shall apply to Animals kept in schools.

SECTION 11. EXISTING PERMITS and LICENSES

All Permits and Licenses issued for the keeping of animals prior to the adoption of these Regulations shall be valid until August 31 of the current year, and may be renewed subject to the Regulations in effect prior to the adoption of these revised regulations provided that the persons, conditions, and agreements contained in the original Permits and Licenses have not changed, and that no unsanitary conditions exist that would endanger the health or welfare of an Animal or be injurious to the public health, or constitute a public nuisance. In the event of any change in circumstance occurring after issuance of the original Permit or License or the presence of unsanitary or nuisance conditions, the renewal of those existing Permits and Licenses shall be subject to this Regulation. Notwithstanding the foregoing, any Licenses or Permits issued prior to the effective date of this Regulation shall be subject to all requirements necessary to ensure that the Facility is maintained in a clean and sanitary manner and does not create a public nuisance, and they shall be subject to the renewal requirements set forth herein.

SECTION 12. NEW PERMITS and LICENSES

Individuals seeking a new Permit or License shall comply with all provisions of this Regulation.

Upon receipt of a completed application for a new Permit or License or renewal with change in circumstance, which shall include payment of all applicable fees, the Board of Health will convene a public hearing. However, if the Board's agent determines that the requested change will not materially change the circumstances on which the Permit/License is based, the agent may administratively approve the modification without a hearing. Notice of the public hearing shall be published in a newspaper with general circulation in the Town of Hamilton and shall be provided to all abutters by certified mail at the applicant's expense. The applicant shall provide at least fourteen (14) days' notice of the date, time, and location of the hearing in the newspaper and to all abutters and abutters to abutters within 300 feet. The applicant shall submit a list of abutters, certified by the Board of Assessors with the application and it shall submit signed return receipt cards at the hearing showing that all abutters have been duly notified. The applicant must demonstrate that the issuance of a Permit or License will not be detrimental in any way to public health, safety, or welfare, will not result in a nuisance and that all applicable requirements of this Regulation and other applicable laws have been satisfied. The Board may impose conditions, safeguards, and other limitations on a Permit consistent with the public health, safety, and welfare.

Once a Permit or License is issued, the holder shall not increase the number of animals, change the species of animals, change the location for the keeping of animals on the property or otherwise modify the Facility prior to the end of the permit year without the approval of the Board of its agent. The permit/license holder must apply for and obtain a Permit or License modification prior to implementing any changes.

SECTION 13. AMENDMENTS

An application to amend a KOA Permit, a Stable License or Coop License shall be submitted 30 (thirty) days prior to any change in circumstance from the original approved Permit, including but not limited to an increase in the number or species of animals to be kept on the property, the location of the stable, paddock(s), Coop or manure storage area(s); or if the areas of the original stable, paddock(s), Coop or manure storage area(s) are increased; or if any new stable, paddock(s), Coop or manure storage area(s) are built or established; or if ownership of the stable or Coop changes. The application for amendment shall be subject to inspection by the Board's Agent and payment of the applicable fee.

An application to amend an existing Permit or License shall be processed in accordance with Section 2.3 of this Regulation.

SECTION 14. VARIANCES

14.1. 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 12 relative to applications for new Permits/Licenses, except as defined in Section 14.4 below.

14.2. Variances shall be granted only under the following conditions:

- a. Strict enforcement of the Regulation will constitute a manifest injustice, and
- b. The granting of the variance shall not in any way impair the welfare of an animal or the public health and safety or the environment.

14.3. 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 or the welfare of an animal.

14.4. An Agent of the Board, e.g., the Town Animal Inspector, has the full authority of the Board to administratively review and approve minor variances without Board review or approval and without a public hearing. A "minor" variance shall be one that falls within the following limits:

- a. A request for a variance from any linear dimension (i.e., in feet) requirement or limit that is within plus/minus 25 percent (25%) of the stipulated linear dimension requirement, unless that dimension is explicitly specified by Massachusetts law or regulation.
- b. A request for a variance from any area (i.e., in square feet or acres) requirement or limit that is within plus/minus 25 percent (25%) of the stated area requirement, unless that area is explicitly specified by Massachusetts law or regulation.

- c. A request for a variance from any non-dimensional numerical requirement or limit that is within one (1) of the stipulated non-dimensional numerical requirement, e.g., no more than one (1) animal per unit.
- d. A request for a variance that the Board's agent determines will not materially change, such as above, the circumstances on which the Permit/License is based.

SECTION 15. APPEAL

Any person aggrieved by a decision of the Board of Health may seek relief as provided by the laws of this Commonwealth.

SECTION 16. PENALTIES AND ENFORCEMENT

A. SUSPENSION OR REVOCATION

1. A Permit or License granted under these Regulations may be suspended or revoked for cause, by the Board of Health, provided that a hearing has been held by the Board after seven (7) days' notice of the suspension or revocation, except in the case of emergency as set out below. Notice shall be given by first class mail sent to the address shown on the most recent application. For purposes of this section, cause for suspension or revocation of a Permit or License shall mean any violation of these Regulations, nuisance or unsanitary conditions caused by the keeping of animals, violations of any statutes or regulations relating to the keeping of animals, or any condition which constitutes a threat to public health and the health or safety of the animals.
2. Whenever the Board of Health Agent has determined that an emergency exists, the Agent may summarily suspend or revoke any Permit or License, without prior notice or hearing, and issue an order stating the existence of the emergency and ordering that the Permit or License be immediately revoked or suspended, as specified therein. In the case of a summary suspension or revocation, the permit holder may request a hearing before the Board of Health, in writing, within seven (7) days after the service of the order and a hearing shall be granted as soon as practicable, provided however, that such a request for hearing shall not stay or in any way modify the terms of the emergency order. At such hearing, the Board may affirm, modify or revoke the Agent's order. The Agent's order will be deemed final if no timely appeal is taken.
3. Cause for Emergency: The following shall be grounds for emergency suspension or revocation of a Permit, License or a variance to keep animals: unsanitary conditions, which in the opinion of the Board of Health or its agent, are creating a hazard to public health, safety or welfare, or that are threatening the health, safety and welfare of the animals, that is so immediate that no delay in revocation or suspension of the permit can be permitted.
4. The person(s) who have had a Permit or License suspended or revoked shall be ordered to remove all animals from the property within 30 days of said suspension or revocation or within a time frame determined by the Board of Health.

B. OTHER ENFORCEMENT AND PENALTIES

1. The Board or its Agent(s) shall investigate violations of these Regulations and other applicable laws concerning the keeping of animals and may take such action that the Board deems necessary for the protection of the public health, the animals and the enforcement of these Regulations.

2. If an investigation reveals violation(s) of these Regulations that in the judgment of the Board or its Agent do not call for revocation or suspension of the Permit or License, the permit holder shall be ordered to correct the violations within fourteen (14) days or such other time period as is deemed necessary. Any permit holder issued an order to correct by may request a hearing in accordance with Section 17(A)(2).

3. Whoever violates any provision of this Regulation and/or any condition in a Permit, License or order issued by the Board or its Agent may be penalized by a noncriminal disposition process as provided in G.L. c.40, §21D and the Town's non-criminal disposition by-law. If noncriminal disposition is elected, then the non-criminal fine for each such violation, if not otherwise specified, shall be:

- First Offense: Written Warning
- Second Offense: up to \$100
- Third: up to \$200
- Fourth and subsequent offense: up to \$300

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

4. Whoever violates any provision of this Regulation and/or any condition in a Permit, License or order issued by the Board of Health or its Agent may be penalized by indictment or on complaint brought in the District Court. Except as may be otherwise provided by law and as the District Court may impose, the penalty for each violation or offense shall be as set forth in Massachusetts General Laws, Chapter 111, Section 31. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.

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

SECTION 17. SEVERABILITY

If any portion of these Regulations or any sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of the Regulations shall continue in full force.

SECTION 18. ADOPTION and EFFECT

These Regulations were adopted by vote of the Board of Health, Town of Hamilton, amended as listed below, and became effective on September 1, 2024 and are available in the office of the Town Clerk and Board of Health.

SIGNATURES and DATES

Chair:

Members:

Adopted at August 13, 2024 Board meeting

Public notice filed and published prior to September 1, 2024 in the Ipswich Local News.

Amended at September 10, 2024 Board meeting

Amended at October 8, 2024 Board meeting