

**DRAFT Sanitary Regulations for Barns, Coops, and Other Structures for the
Commercial and Residential Keeping of Animals in the Town of Wenham
(2.15.2017)**

Section 1. Purpose:

To provide and increase standards for sanitary conditions in the Town of Wenham for all animals kept commercially or residentially.

Section 2. Rationale:

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 the spread of disease and waste products.

Section 3. Authority:

The Board of Health of the Town of Wenham, Massachusetts, as authorized by Massachusetts General Laws, Chapter 111, Section 31, hereby establishes Board of Health Regulation, “Sanitary Regulations for Barns, Coops, and Other Structures for the Commercial and Residential Keeping of Animals in the Town of Wenham.”

Section 4. 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 three 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, bird, reptile, fish, cow, horse, but shall not include 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 Wenham, 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

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).

Livestock: shall mean horses, ponies, cows, bulls, cattle, sheep, goats and swine.

Malodor: means noxious odor.

Manure: means excrement and used bedding from livestock & poultry.

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, including a city, town, county or other governmental unit.

Poultry: shall mean all domesticated or semi-domesticated edible fowl such as but not limited to chickens, turkeys, ducks, guinea fowl, pheasants, and pigeons.

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, corral, dry lot, enclosure, paddock, coop, run, 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.

Suitable land: Suitable land shall be land that is not a wetland as defined under M. G. L. Ch. 131 S. 40 or 310 CMR 10.00 or subject to flooding.

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, S. 40, 310 CMR 10.00, the Wetlands Protection Act, and Town of Wenham, Chapter XVIII, Water Protection Resources Bylaw, as amended from time to time.

Section 5. Maintenance of premises and caring of animals

No person shall own or operate a facility unless the following conditions are met:

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 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.

5.3 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.

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

5.5 Maintain the facility and all portions thereof so as to prevent the spread of infectious or contagious diseases.

5.6 Provide adequate space for the safety of group housed animals.

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

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

Section 6. Location of barns, coops, and other structures

6.1 No structure shall be located within:

- a. Twenty (20) feet of front property line
- b. Fifteen (15) feet of the side or rear property lines
- c. Ten (10) feet of any component of a subsurface disposal system without permission of the Agent of the Board of Health.

6.2 No paddock, pen, or animal exercise area shall be located over the leaching facility of a subsurface disposal system without permission of the Agent of the Board of Health.

Section 7. Manure Storage

7.1 Manure shall 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 abutters' property.

7.2 No manure storage area shall be located within:

- a. Twenty (20) feet of front property line.
- b. Fifteen (15) feet of the side or rear property lines.
- c. One hundred (100) feet of wells.
- d. Four hundred (400) feet of public water supply wells.

Section 8. Existing Facilities and Variances

8.1 Facilities in existence prior to the effective date of this Regulation shall be exempt from sections 6 and 7 of this Regulation provided that they do not create any nuisance or threat to public health, safety and/or the environment.

8.2 No existing Facility shall be altered or enlarged to encroach upon the setbacks set forth in sections 6 and 7 of this Regulation to a greater extent than existing prior to the effective date.

8.3 The Board of Health may grant a variance from the provisions of sections 6 and/or 7 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.

8.4 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

abutters 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.

8.5 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 9. Enforcement

9.1 This regulation will be enforced by the Animal Inspector for the Board of Health and will be subject to all enforcement rules and regulations under Wenham Town Bylaws.

9.2 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)

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

9.4 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.

9.5 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.

9.6 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.

9.7 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.

Section 10. 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 11. Adoption and Effect:

These rules and regulations were adopted by unanimous vote of the Board of Health, Town of Wenham, Massachusetts and are to be in full force and effect on and after July 1, 2017 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.

Public Hearing Date: June 15, 2017

Adopted:

Copy sent to DEP:

Chairman: _____

Dr. Andrew Ting

Gerald Donnellan

Regina Baker

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