

Regulation of the Merrimac Board of Health Minimum Standards for the Keeping of Animals

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MERRIMAC
BOARD OF HEALTH

A. **PURPOSE:**

1. As the Merrimac Board of Health is responsible for the protection of the public health in Merrimac, this regulation is promulgated to protect the health and safety of the public.
2. This regulation is promulgated to provide the minimum standards for keeping of animals in Merrimac by enabling residents to responsibly participate in the growing national trend of small scale agricultural protection, while also protecting the public health, safety, and welfare of all residents of Merrimac.
3. This regulation is not intended to regulate the use of land for commercial agriculture. Commercial agriculture may be limited by Merrimac zoning bylaws to activities of five (5) acres or more or on parcels of two (2) acres or more if the sale of products produced from 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

B. **AUTHORITY:**

1. This Regulation is adopted pursuant to the authority granted to the Merrimac 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. These regulations are intended to reasonable regulate the Right to Farm accorded to all citizens of the Commonwealth under Article 97 of the Articles of Amendment of the Massachusetts Constitution, and all state statutes and regulations thereunder, including, but not limited to, Massachusetts General Laws Chapter 40A, § 3; Massachusetts General Laws Chapter 111, § 125A; Massachusetts General Laws Chapter 128, § 1A; and Massachusetts General Laws Chapter 243, § 6.

C. **DEFINITIONS:**

- **Abutter:** Owners of the abutting land or property within three hundred (300) 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.
- **Agriculture:** For the purpose of this regulation, "Agriculture" shall mean the raising of livestock, including horses and the keeping and raising of poultry, swine, cattle and other domesticated animals used for food purposes.
- **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 undomesticated animals as regulated by Massachusetts General Laws Chapter 131, Section 23, and 321 CMR 9.00.
- **Animal Shelters:** 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 of Health or "the Board":** Merrimac Board of Health and/or its designated agent(s).
- **Cockerel:** Young male chicken.
- **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, any accessory or animal structure, a barn, and/or stable.

- **Fencing:** A barrier, railing, or other upright structure, typically of wood or wire, enclosing an area of ground to mark a boundary, control access, or prevent escape
- **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 (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, <http://www.mass.gov/eea/agencies/agr/>; the USDA Natural 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/resource/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 of 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, camels, 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.
- **Poultry:** A domestic fowl, such as chickens, turkeys, ducks, and geese
- **Stable:** An accessory building or structure used for the shelter and/or feeding of one or more animals.
- **Stall:** A compartment in a stable used for the keeping of one or more animals.
- **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 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.

- **Zoning Districts for the Town of Merrimac Ma:**

- VR - Village Residential District
- VC - Village Center District
- SR - Suburban Residential District
- AR - Agricultural Residential District
- BM/BOD - Birch Meadow Overlay District
- LA - Lake Attitash District
- RH - Rural Highway District
- HS - Highway Services District
- OI/LI - Office-Light Industrial District

D. **GENERAL REQUIREMENTS:**

1. All applications for a Keeping of Animals Permit 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 Permit and Applications section of this regulation.
2. All structures must comply with the applicable setback requirements for the zoning district in which such structures are located as set forth in the Merrimac Zoning Bylaws.
3. 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.).
4. 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."

E. **PERMIT AND APPLICATION REQUIREMENTS**

1. 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, and except as indicated in Section 2 below.
2. The keeping of less than 2 Poultry shall not require a permit.
3. The keeping of roosters, cockerels, and non-exempt undomesticated animals, in accordance with Massachusetts General Law Chapter 131 Section 23, is prohibited within Merrimac VR, VC, SR, LA, BOD and LI districts.
4. Application(s) for a Keeping of Animals Permit shall be submitted on a form supplied by the Board of Health for each location where animals are kept in Merrimac. Such application(s) shall be accompanied by the following information, and will be deemed incomplete if any information, plan, or fee is missing.
 - a. Name, mailing address, phone number and email of all owners of the property, including an emergency contact number.
 - b. Location – street address of the premises to be used.

- c. Maximum number and species of animals to be kept.
 - i. If the permit holder intends to increase the number of animals or change in 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 determines that the increase will materially change the application upon which the permit is based.
 - ii. This section shall not apply to farmers when commercially breeding animals.
 - d. A plot plan, with dimensions of the area where animals will be kept. Also required on the plot plan are the locations of the primary residence, structure(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.
 - e. A written management plan for the following:
 - i. Manure management
 - ii. Storage of feed
 - iii. Pest management
5. Application Fee will be \$10.00 per household. Fee can be waived for educational programs such as 4H at BOH discretion.
 6. 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.
 7. The permit shall expire annually on March 31st of each year unless sooner revoked or suspended by the Board after a hearing.
 8. 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.
 9. If the permit holder is not the owner of the property, documentation must be provided indicating that the property owner is not opposed to the keeping of animals on the property.
 10. All residents currently keeping animals without a Permit must file an application no later than 12/31/2022. For calendar year 2022 all application fees will be waived.
 11. Effective 4/1/2023 and annually thereafter, a permit is required for anyone keeping one or more animals as defined by this regulation.

F. HEARINGS

1. Upon submission of an application, the application fee, and all required supporting materials, the Board shall review the application at its next regularly scheduled public meeting.
 - a. If the Board determines that the submitted application is complete, properly supported by all required plans, and the proposed use is consistent with the requirements of this Regulation, the Board may vote to approve the application and grant the requested permit.
 - b. If the Board determines that the submitted application is incomplete, or that the proposed use appears inconsistent with the requirements of this Regulation
 - The Board shall return the application to the applicant for opportunity to revise and the application will need to be resubmitted to the Board.
 - If the revised application is denied then the Board shall schedule a public hearing on the application. The Applicant shall send notice of the public hearing by first class mail, postage prepaid, to all abutters, and abutters to abutters within 300 feet of the Property, at least fourteen (14) days prior to the public hearing. The Applicant shall certify in writing to the Board that they sent notice of the public hearing to all interested parties as required by this section.
2. At the public hearing required under Section F(1)(b), the Board shall determine whether the issuance of the requested permit will be detrimental in any way to the public welfare, or would endanger the health and

safety of the residents of the Town. In determining whether to issue a permit, the Board may consider factors, including, but not limited to, the following:

- a. Whether the applicant has submitted a complete application, supported by all plans and information required by this Regulation;
 - b. Whether the proposed use would be detrimental to the abutters, the surrounding neighborhood, or the community at-large by reason of odor, noise, light, fire or explosion risk, poor ventilation, pests, or potential contamination of water sources and private wells,
 - c. Whether the applicant has provided a written management plan that adequately addresses manure management, the storage of feed, and pest control.
 - d. Whether the Applicant can adequately support the total number of proposed animals on the Property.
 - e. Whether the granting of the requested permit would endanger animals, or the occupants, visitors, or abutters to the Property.
 - f. Whether the granting of the permit would, in any way, be detrimental to the public health, safety, and welfare of the community, or the environment,
3. The Board may impose reasonable conditions on any approved permit. It shall be a condition of all approved permit that the permit holder shall comply with all applicable federal, state, and local laws and regulations.

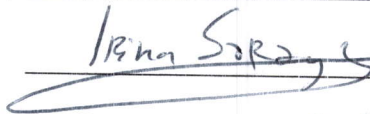
G. PENALTIES

1. 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.
2. 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).
3. In accordance with Massachusetts General Law Chapter 111, Section 31, any violation of this regulation shall be subject to a \$100 fine. 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.
4. 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.
5. 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.
6. Arrangements for re-homing the animals shall accompany any suspension, revocation or denial of a permit.

H. SEVERABILITY

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 thereby, but shall continue in full force and effect.

Signed this 3 day of Oct, 2022.



Effective date: 4/1/2023



TOWN OF MERRIMAC, MASSACHUSETTS
BOARD OF HEALTH
KEEPING OF ANIMALS PERMIT APPLICATION

Permit Year: 20_____

Fee: \$10.00

APPLICANT INFORMATION:

Payable to Town of Merrimac

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Cell: _____

Email(s): _____

Emergency Contact Name and Phone Number _____

ADDRESS WHERE ANIMALS WILL BE KEPT: ☐ Same as Applicant

Name: _____

Location Address: _____

City: _____ State: _____ Zip Code: _____

PROPERTY OWNER INFORMATION: ☐ Same as Applicant
(If different from Applicant please attach documentation as per regulation)

Name: _____

Mailing Address: _____

City: _____ State: _____ Zip Code: _____

Phone: _____ Cell: _____

Email(s): _____

LIST OF SPECIES AND NUMBER OF ANIMALS (If more lines are needed please attached a 2nd sheet):

Number: _____ Species: _____

Number: _____ Species: _____

Number: _____ Species: _____

PLEASE ATTACH THE FOLLOWING:

1. A plot plan, with dimensions of the area where animals will be kept, locations of the primary residence, structure(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.
2. A written management plan for the following: Manure management, Storage of feed, and Pest management.

For Office Use Only:

Date Approved: _____ Date Denied: _____

Signature: _____ Permit # KA _____

Permit is NOT Transferable