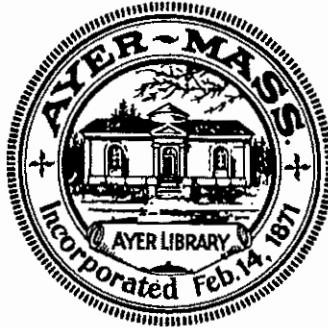


TOWN OF AYER BOARD OF HEALTH Minutes of September 10, 2018

Chair P. Peters called the meeting to order at 5:37 pm in the downstairs meeting room, Ayer Town Hall. Members present included: *Chair* Patricia Peters, *Vice Chair* Pamela Papineau, and *Clerk* Mary Spinner. *Administrative Assistant* Jane Morriss was also present. The meeting was recorded by APAC.



RECEIVED
SEP 25 2018
TOWN OF AYER
TOWN CLERK
12:01 pm *lf*

PUBLIC INPUT: None

REVIEW OF MINUTES: M. Spinner made a motion to accept the minutes of August 27, 2018, and P. Papineau 2nd. The Board voted to accept the minutes as submitted. 3/0 A.

DISCUSSION OF ISSUES RELATED TO BOH'S CHANGING RESPONSIBILITIES IN MATTERS PERTAINING TO AQUIFER PROTECTION

(P. PAPINEAU (CONTINUED FROM 8-27-2018 MEETING): The Board is waiting to hear back from an e-mail query to the Mass Associated Health Boards (MAHB) about ways that the BOH might retain its oversight in matters of Aquifer Protection while not functioning as the SPGA authority. If the Board substantially changes its regulation, it will need to hold a public hearing.

REVIEW REGULATIONS GOVERNING THE KEEPING OF ANIMALS AND FOWL, (CONTINUED FROM 8-27-2018 MEETING): In Ayer, animal husbandry is allowed by regulation, not by right. With this in mind, P. Papineau looked over animal regulations from Sharon, Palmer, Hingham, Canton, and Sudbury, (other towns who regulate animal husbandry) and made several observations: ■ The other town's regulations had longer lists of definitions, which helps clarify what we do and do not allow. ■ Household pets are exempted from the regulation. (SEE DRAFT COPY OF REGULATION POSTED WITH THESE MINUTES) ■ Some towns outlawed roosters, and the Board decided to give roosters "some thought." ■ There are new State regulations that dictate how much room chickens need. ■ Some regulations referred to "owners, or anyone acting like an owner," which the Members liked. ■ The fees ranged from \$5 to \$50. Board members agreed that it wants to increase the cost of an Ayer permit to \$30 or \$35 and review every two years. MGL caps the charge for stable permits at \$40. There was broad agreement that it would be advantageous to write the new regulation so that the fee would be "uncoupled" from the Regulation, and posted on-line (rather than imbedded in the regulation) to allow the Board to change the fee without having to re-write the regulation. P. Papineau will submit a tracked revision of the revised regulation for consideration at the September 28, 2018, BOH meeting. J. Morriss was asked to follow up with B. Braley for insight into how other towns handle the oversight of keeping animals in towns that are farm-by-regulation communities. P. Papineau will look at the Department of Agriculture. The references in the current regulation all need to be checked to make sure they are current.

NABOH MATERIAL (B. BRALEY): None.


REVIEW OF LIST OF BOH REGULATIONS WITH DATES ENACTED (J. Morriss): The Board looked over the list submitted by J. Morriss, a copy of which is being filed with these minutes.

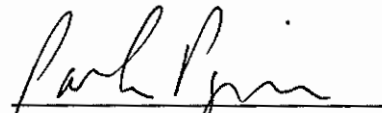
ADMINISTRATIVE MATTERS: CORRESPONDENCE: Notification from the Nashoba Boards of Health Regarding General Information on the West Nile Virus dated August 10, 2018; a Water Quality Notice indicating increased chlorine level in the Town water; a letter from Mass DEP notifying FBS Tire Recycling, Inc. located at 80 Berkshire Blvd.,

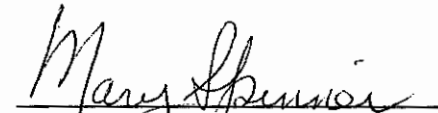
indicating its application requesting a facility modification is "technically complete"; notification from State Health Officials alerting residents about potential exposure to measles; and a memo from Central Massachusetts Mosquito Control Project informing residents that its residential spraying program will cease at the end of August. MISCELLANEOUS: Training for open Meeting Laws will be held at 5:30 pm Thursday, November 15, 2018, at Bromfield School, in Harvard, MA.

ACTION ITEMS FOR SEPTEMBER 24 MEETING: The Board will continue its review of its Animal Regulation and permitting process. The Board will continue its discussion of the issues involved in relinquishing its role as SPGA of Aquifer Protection.

ADJOURN: M. Spinner motioned to adjourn the meeting at 6:44 pm, and P. Papineau 2nd. A 3/0


Patricia Peters, Chair


Pamela Papineau, Vice Chair


Mary Spinner, Clerk

Respectfully Submitted by
Jane Morriss



AYER BOARD OF HEALTH

Regulations Governing the Keeping of Animals and Fowl

Section 1. Authority

These regulations are adopted under the authority of MGL Chapter 111, ~~Section~~s 31, 122, 143, and 155, and amendments and additions thereto, as reasonable health regulations designed to protect and improve the health and quality of life of those who reside within the Town of Ayer. These regulations shall take effect as of the date of their approval as indicated below.

Section 2. Statement of Purpose

Whereas minimum standards for the keeping of animals, protection of public health, animal welfare, and the environment are considered necessary for the welfare of the community, the Ayer Board of Health has adopted these regulations.

Section 3. Definitions

Abutter: The owners or tenants of property that adjoins the lot upon which animals or fowl are to be kept, whether or not said properties are separated by a public way.

Animal: All animals, with the exception of Household Pets, are subject to this regulation. Examples include but are not limited to such as, ~~but not limited to,~~ cattle, goats, sheep, swine, equines, llamas, alpacas, ~~poultry, other large animals, or livestock, or fowls~~ reptiles or snakes, which are kept or harbored as domesticated animals. Cats, dogs, ferrets, domesticated pot-bellied pigs, rabbits, and hamsters are excluded from this definition.

Animal Husbandry: A branch of agriculture concerned with the care and/or breeding of domesticated animals.

Applicant: One who applies for a permit to keep one or more animals or fowl.

Board of Health: Ayer Board of Health.

Coop: A structure for the keeping or housing of poultry ~~or other types of fowl.~~

Corral/Paddock: Enclosure for the confining of one or more animals.

Exotic: Refers to an animal not native to this region or country.

Facility: The total accommodations to be used for the keeping or housing and care of one or more animals, including but not limited to a barn, stable, pen, coop, loft or corral/paddock.

Fowl: Members of the bird family~~Birds for food, hunted as game, or used for racing.~~ including, but not limited to chickens, roosters, capons, hens, turkeys, pigeons, pea fowl, guinea fowl, ducks, swans and geese (other than wild species).

Household Pets: Animals that are primarily kept inside an owner's residential dwelling or commercial building including but not limited to dogs, cats, ferrets, hamsters, guinea pigs, chinchillas, rabbits, hedgehogs, flying squirrels, sugar gliders, rats, mice, fish, domesticated or exotic birds, reptiles, amphibians and potbellied or miniature pigs.

Loft: Structure for the keeping or housing of pigeons or other types of fowl.

Owner: Any person who alone, jointly, or severally with others: a) has legal title to any dwelling or dwelling unit, or b) has care, charge or control of any dwelling unit as agent, executor, executrix, administrator, trustee, lessee, or guardian of the estate of the holder of legal title. Each person thus representing the holder of legal title is bound to comply with the provisions of this regulation as if s/he were the owner.

Noise: Sound of sufficient intensity, concentration and/or duration so as to cause a nuisance, be injurious to, or considered potentially injurious to human health, or unreasonably to interfere with the comfortable enjoyment of life and property.

Nuisance: Any condition including, but not limited to, noise, offensive odor, attraction or breeding of insects, an environment supporting the growth of vermin, presence of rodents, or any other condition having public health or environmental significance.

Pen: A structure for the keeping or housing of one or more animals.

Pen: A structure for the keeping or housing of one or more animals.

Runoff: Water from rain or melted snow that flows over the surface of the ground.

Stable: A structure having compartments or stalls in which large animals such as horses, donkeys, mules, cattle or ponies are housed.

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

Unsanitary Conditions: The facility's state of being or conditions which, in the judgment of the Board of Health and/or its agents, are conducive to or results in, the breeding of flies, creation of offensive odors, rodent infestation, liquid effluent, runoff, or other public health hazard.

Vermin: Any of various insects or small animals regarded as objectionable because of destructive or disease-carrying potential including but not limited to flies, mosquitos, lice and rats. and/or noise in such concentrations and/or such duration as to cause a nuisance, be injurious, may be considered potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.

Wild Animal: Any animal not normally found or kept as a domesticated animal. These animals often require a federal or state permit, including but not limited to snakes, poisonous reptiles, alligators, monkeys, lions and tigers.

Section 4. Applicability and Exemptions

A. Applicability: This regulation applies to the keeping of all animals and/or fowl within the Town of Ayer, subject to the exemptions defined below. Animal husbandry is not allowed by "right" but, rather, is controlled by this regulation.

B. Exemptions: This regulation shall not apply to the following properties and facilities:

1. Individual properties or facilities under the direct care and/or control of the Massachusetts Prevention of Cruelty to Animals (MSPCA).
2. Any property owner who kept animals or fowl on his or her land in the Town of Ayer, prior to the date of issue of this current version of this regulation, may continue to use said land for the keeping of animals and fowl subject to the public health requirements described in this regulation. The rights afforded by this exemption shall terminate when the land is sold or otherwise transferred to another owner.

Section 5. Keeping of Wild or Exotic Animals

- A. Wild animals or exotic animals must be kept in accordance with M.G.L c 131 s 23 and 321 CMR 9.01. Mass Wildlife has statutory responsibility for all freshwater fish, reptiles, amphibians, birds, and mammals regardless of whether they are native to Massachusetts or occur elsewhere in the world. The keeping of some species of animals requires a permit issued by the Mass Division of Fisheries and Wildlife; refer to 321 CMR 9.01 for a list of species requiring a permit; examples include but are not limited to some species of fish, turtles, snakes, lizards, birds and mammals. You should not assume that animals for sale on the internet or in other states, including those states adjoining Massachusetts are allowed in Massachusetts. Similarly, be wary of animals advertised for sale on the internet and newspapers. These may be lawful at the point of origin, but not in Massachusetts.
- B. No foxes, skunks, minks, racoons or rabbits shall be raised for commercial purposes anywhere within the Town of Ayer, regardless of the size of the parcel of land. *Needs State Permit.*
- C. The keeping of the following animals is prohibited within the Town of Ayer, regardless of whether a state or federal permit has been issued: primates (monkeys, chimpanzees, etc.), wolves, bears, coyotes, bats, poisonous or venomous snakes or other reptiles, big cats (lions, tigers, etc.), and wolf-dog hybrids. These prohibitions apply regardless of whether the owner or keeper of the animal has obtained a permit from the Mass Division of Fisheries and Wildlife.

Section 54. Permits

A permit to keep one or more animals shall be required for anyone keeping one or more animals as defined in this regulation.

- A. Application(s) for a permit for the purpose of keeping animals shall be submitted on a form supplied by the Board of Health for each location where animals are kept in the town. At the time the application for keeping animals is submitted, the applicant shall provide the Board of Health with the following documents:
 1. Full name, address, and telephone number of the applicant.
 2. Location – street address of the premises to be used.
 3. List of abutters.
 4. Number and species of animals to be kept. NO animals in excess of the specified number

on initial application shall be kept without notifying the Board of Health within thirty (30) days.

5. Informal plot plan, showing the following:
 - a. borders with dimensions of area where the animals will be kept and used by animals,
 - b. location of all structures on the property,
 - c. confining fences and barriers,
 - d. any bodies of water or surface watercourses located within 100' feet of the housing for the one or more animals,
 - e. location of any septic system on the premises,
 - f. location of any private wells within the perimeter of the area where the one or more animals will be kept or within 100' of the perimeter,
 - g. location of manure containers, and drainage details.
6. A written plan for the management and disposal of animal waste, storage of feed, method used to control flies and vermin.
7. Stables shall be located at least one hundred (100) feet from any dwelling on abutting property.

8. A paddock/corral area shall be situated at a sufficient distance from the property line so as to prevent damage to abutting property and to prevent incidental contact of children on abutting property. Furthermore, they shall be situated and managed in such a way so as to prevent significant runoff of fecal matter into water bodies taking into account the slope and vegetation between the fence of the corral or paddock and the water body.
9. Property barriers such as fencing or other appropriate measures shall be installed on areas of the property where keeping of animals exists. These barriers shall be secured in such a fashion as to prevent the escape of animals.
10. The initial applicant/application and proposed renovations shall meet and receive zoning clearance from the Building Department.
- X 11. The permit fee to keep animals or fowls is \$25.00. ←
12. Permits shall expire on May 31 of each year, unless sooner revoked by the Board of Health upon violation of any of the provisions of these regulations. Application for renewal of a permit is the responsibility of the holder of the permit and will have an annual fee of \$25.00.
13. The person(s) who have had a permit denied or revoked shall be ordered to remove all unlicensed animals from the property within a time frame determined by the Board of Health.
14. No person shall propose or erect, remodel, occupy or use a stable, or accessory structure intended for the housing of animals unless and until he/she has submitted a plan to the Board of Health for review and the same has been approved.
15. Each facility shall have a supply of potable water available to the structure for feeding and cleaning purposes.
16. Permits are not transferable and shall be posted in a conspicuous area.

Section 56. Standards of Care

- A. The facility for the keeping of one or more animals shall not allow or permit the floor and/or grounds of the facility to be designed, constructed, and/or maintained in unsanitary conditions. Requirements are as follows:
 1. The facility shall be adequately ventilated and provide protection from weather elements.
 2. All facilities for the keeping of one or more animals shall be securely fenced to prevent the escape of animals. Animals at no time shall be allowed to roam unattended from the designated area as noted in the application.
 3. Paddocks used for horses/stallions must provide at least ½ acre of land per animal.
 4. All stables shall be provided with a fenced paddock adequate for free exercise of the horses kept in the stable.
 5. All paddocks shall be provided with drainage to prevent the formation of stagnant pools or puddles.
 6. Barbed wire shall not be used for fencing.
 7. All electric fences shall be posted with a sign so stating.
 8. Paddock fencing shall be high enough to keep the animals confined and prevent their breaking loose.
 9. Each stall shall be of a size for a horse to lie down, get up, and turn around.

10. Each stall floor shall be kept covered with an adequate dry supply of suitable bedding material to absorb moisture and subdue odor. Beddings such as straw, shavings, sawdust etc. are suitable.
 11. The interior of the stable shall be free from projecting nails, splinters etc. liable to injure the animal. The use of rotten, burned, crumbly or otherwise interior materials is prohibited. Electrical fixtures shall be placed out of the reach of animals.
 12. All containers used to store feed/grain must be made of suitable materials to prevent the entry of insects or rodents.
 13. An adequate supply of water shall be provided for all animals.
- B. The following maintenance requirements shall be maintained at all times:
1. The facility in which the one or animals are kept shall be maintained in such a manner as to prevent the spread of infectious or contagious diseases.
 2. The owner of the facility for the keeping of one or more animals shall keep the facility in a clean, sanitary, and presentable condition, free from decaying food, filth, feces, vermin infestation and stagnant water.
 3. Food shall be stored in sealed, moisture-proof and vermin –proof containers, when appropriate.
 4. One or more dead animals shall be disposed of or incinerated, at an appropriate facility, within a reasonable time but in no event more that forty-eight (48) hours after death. Storage of deceased animal shall be in such a way to prevent odors and attraction of vermin.
- C. A written manure management plan addressing the following are requirements for the keeping and maintenance of manure and fecal matter within the facility shall be submitted with the application:
1. Drainage or liquid effluent containing urine, fecal matter and manure from any one or more animals kept at said facility is not to be discharged in runoff, or to flow over the surface of the ground onto a neighboring property, public way or watercourse and shall not be susceptible to flooding. Water including drainage shall not become stagnant or collect or create a ponding affect upon said facility.
 2. The owner of facilities for the keeping of one or more animals shall provide for the sanitary storage and disposal of all waste, fecal matter and manure related to the keeping of the one or more animals.
 3. Manure shall be stored and managed in such a way so as to prevent significant runoff of fecal matter into water bodies or wells taking into account the slope and vegetation between the manure storage area and the water body or well.
 4. During warm weather, if necessary, fecal matter and manure shall be treated with lime or super phosphate to minimize odors and treated with legally approved insecticides for fly control.
 5. The Board of Health or its authorized agent will allow the composting of manure generated at the facility for the keeping of one or more animals upon specific written Board of Health approval.

Section 76. Keeping of Poultry

Coops for the keeping of poultry shall be of sufficient size and design, and constructed of material to accommodate the poultry in a safe and healthy manner and be maintained in clean and sanitary conditions.

Section 7. Keeping of Wild or Exotic Animals

~~Wild animals or exotic animals must be kept in accordance with M.G.L. c 131 s 23 and 321 CMR 9.01. Mass Wildlife has statutory responsibility for all freshwater fish, reptiles, amphibians, birds, and mammals regardless of whether they are native to Massachusetts or occur elsewhere in the world.~~

~~You should not assume that animals for sale in other states, including those states adjoining Massachusetts are allowed in Massachusetts. Similarly, be wary of animals advertised for sale on the internet and newspapers. These may be lawful at the point of origin, but not in Massachusetts.~~

Section 8. Exemptions

~~This regulation shall not apply to the following properties and facilities:~~

- ~~A. Individual properties or facilities under the direct care and/or control of the Massachusetts Prevention of Cruelty to Animals (MSPCA).~~
- ~~B. Properties or facilities that are part of farming as defined by MGL Chapter 111 Section 1. Sufficient proof that such property or facility is agriculture as so defined, shall include one of the following:~~
 - ~~1. A valid Registry of Motor Vehicles farm registration certificate,~~
 - ~~2. A tax certificate for classified forest land pursuant to MGL Chapter 61,~~
 - ~~3. Farm Viability Plan created in conjunction with the Department of Agricultural Resources,~~
 - ~~4. Recorded Agricultural Preservation Restriction,~~
 - ~~5. State or Federal income tax returns including Schedules C, D, and F,~~
 - ~~6. Special Assessment of real estate pursuant to MGL Chapter 61A, or~~
 - ~~7. Licenses issued by DAR for operation of production agriculture or farm business.~~

Section 99. Enforcement

- ~~A. The board of Health may deny, suspend, revoke, or refuse to renew a permit for failure to comply with the provisions of this regulation.~~
- ~~B. Any owner or person in charge of a facility covered by these regulations who fails to comply with this regulation shall be subject to a fine of one hundred dollars (\$100.00) each day or part thereof when a violation occurs.~~

B.C. _____ The person(s) who have had a permit denied or revoked shall be ordered to remove all animals from the property usually not less than 30 days or within a time frame determined by the Board of Health.

C.D. _____ Should the Animal Control Officer, Animal Control Inspector or an authorized representative from the Town of Ayer take into custody, a loose or stray animal and the animal's owner can be determined; the owner is responsible for the boarding fees associated with the capture.

Section 100. Right to a Hearing

Any person or persons who feel aggrieved by the Board of Health order that has been served pursuant to any section of these regulations may request a hearing before the board of health by filing a written petition to the Board of Health within seven days of receipt of this said order.

Section 111. Variance

The Board of Health may grant a variance to any of the provisions of these regulations when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health or the environment.

Section 122. Severability

Each provision of these regulations shall be considered as separate to the extent that if any section, item, sentence, clause, or phrase is determined to be invalid for any reason, the remainder of the regulation shall continue in full force and effect.

Section 133. Adoption and Effect

These rules and regulations were adopted by unanimous vote of the Board of Health, Town of Ayer, Massachusetts and are to be in full force and effect on and after July 9, 2007 and shall be deposited in the office of the Town Clerk.

(signed)

Mary Spinner
Chair

(signed)

Margaret Kidder
Clerk

(signed)

Marilyn McMillan
Member

See page 7 ►

These regulations were adopted on 7-9-07

These regulations went into effect on 7-9-07

Reviewed with no changes (reformatted only) on _____

Mary Spinner, Chair, Ayer Board of Health

Margaret M. Kidder, Clerk, Ayer Board of Health

Marilyn McMillan, Member, Ayer Board of Health

List of BOH Regulations in effect September 10, 2018

Effective Date Name of Regulation

2/14/2001: AYER BOARD OF HEALTH Regulations for Body Art Establishments

5/24/2000 Aquifer Protection District Health Regulations
(Amended October 11, 2000)

1/10/2001 Floor Drain Regulations

7/9/2007 Regulations Governing the Keeping of Animals and Fowl

5/6/2013 Moratorium on Groundwater Wells in the Town of Ayer

6/11/2007 Ayer BOH Outdoor Wood Burning Boiler Regulations

1/10/2001 Private Well Regulations

7/1/2018 Regulation of the Ayer Board of Health Restricting the Sale of Tobacco Products

10/15/2001 Town of Ayer Board of Health Rules for On-site Disposal Supplemental to the State
Environmental Code, Minimum Requirements for the Subsurface Disposal of Sanitary
Sewage, Title 5

5/18/2015 Solid Waste Hauler Regulations