



TOWN OF WESTPORT
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OFFICE OF BOARD OF HEALTH
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TENANT FARM REGULATION

1. AUTHORITY:

This regulation is enacted under the authority of, but is not limited to, one or more of the following: Massachusetts General Laws, Chapter 111, Sections 30, 31, 122, 122A, 127, 143, 155 and 187 and 310 CMR 11.02. Pursuant to Chapter 111, Section 143, the Board of Health may require public site assignment hearings.

2. PURPOSE:

This regulation has been enacted to ensure that the operation of a farm in Westport, on which livestock not belonging to farm's owner are maintained, will not cause harm to the farm's inhabitants, the public health, safety, the environment, and the health and safety of the animals kept on the farm.

3. DEFINITIONS:

Board of Health or Board. The Town of Westport Board of Health.

Companion Animals. Animals that are primarily kept indoor for non-commercial purposes including, but not limited to, dogs, cats, ferrets, fish, domesticated or exotic birds, guinea pigs, hamsters and mice.

Feeding Plan. A plan for the storage, containment and use of animal feed in order to prevent the development of unsanitary conditions.

Health Agent or Agent. Any person duly appointed by the Westport Board of Health.

Infestation. The presence of an unusually large number of insects or animals in a place, typically so as to cause damage or disease.

Livestock. Animals kept for agricultural purposes including but not limited to cattle, goats, sheep, pigs, equines, camelids, rabbits, poultry or fowl. This term does not apply to companion animals or bees.

M.G.L. Massachusetts General Law.

Manure Management Plan. A plan for the handling of manure and other manure related wastes. The plan shall address cleaning, composting, storage, fly control utilization and removal of manure and related wastes.

Permit Year. The permit year for tenant farms shall run from May 1st through April 30th of each year.

Person. An individual, partnership, corporation, firm, association, trust or group, including but not limited to, private, non-profit and government entities.

Plot. A portion of a tenant farm designated or reserved for one or more tenant operators.

Potable Water. Water that is safe and satisfactory for drinking and cooking.

Poultry. Includes but is not limited to chickens, ducks, guinea fowl, peafowl, pheasants, partridges, quails and turkeys.

Site Owner. Every person who has legal title to the land on which the tenant farm is located or has care, charge or control as agent, executor, executrix, trustee, lessee or guardian of the estate of the holder of legal title of the land on which the tenant farm is located.

Surface Water. All waters other than ground water including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, and coastal waters.

State. The Commonwealth of Massachusetts.

Tenant Farm. A single site or plot at which livestock owned by two or more separate tenant operators is kept or a site or plot of less than two acres on which livestock owned by a sole tenant operator is kept.

Tenant Operator. The owner of livestock located on a site not owned by the tenant operator.

Town. The Town of Westport, Massachusetts.

Unsanitary. A condition, which the Board determines constitutes a nuisance, source of filth or cause of sickness or poses a threat of nuisance, source of filth or cause of sickness.

4. PERMIT:

- (a) Permit. No person shall own or operate a tenant farm or a plot on a tenant farm within the Town of Westport without a valid tenant farm permit issued by the Board of Health. Permits shall be valid during the permit year issued unless otherwise revoked by the Board. A permit may be renewed annually upon application, provided that the applicant is then qualified to receive a permit and the premises for which a renewal is sought are suitable for such purpose. The Board of Health may require approval from the Town Building Department, Zoning Board of Appeals and/or Conservation Commission.
- (b) Permit Year. The permit year for tenant farms shall run from May 1st through April 30th of each year.
- (c) Prior to the issuance of a permit. The Board of Health will establish permit application forms and fees. Fees will be set in accordance with the Board of Health's consolidated fee

regulations. A permit to keep livestock or poultry on property in the Town of Westport is not transferable.

- (d) **Inspection Agreement.** The site owner and tenant acknowledge the right of the Board of Health and its Agents to inspect the site or plot as a condition of receiving or renewing a permit or in response to a complaint.
- (e) **Permit Application Content.** A complete new or renewal application on a form established by the Board of Health accompanied by the effective fee must be submitted by the site owner and/or tenant operator. The application will include such information as the Board deems necessary to achieve the purposes of this regulation. The information required for a complete application may include, without limitation, a description and map delineating the locations on the farm on which the site owner keeps animals and tenant operators approved by the owner to keep their animals; site ownership and contact information; animal ownership and contact information for each of the tenant operators; maps and/or drawings locating buildings, water supplies and surface waters; the types and numbers of livestock, as well as feeding and manure management plans. An incomplete application will be rejected with no right to a hearing. Any change in the names or contact information of the owner and/or tenant operator must be provided to the Board within 48 hours of said change. All new or renewal applications will be subject to an inspection by a Health Agent.
- (f) **Certification.** The application shall require the applicant to certify that the information provided is true and accurate to the applicant's best knowledge and belief. Submission of a knowingly false or inaccurate application or any knowingly false or inaccurate supporting information to an application is a violation of this regulation and will cause the application to be rejected without a hearing or constitute grounds to revoke the permit.
- (g) **Public Hearing.** No permit for tenant farm or a plot on a tenant farm shall be granted until after a public hearing. Notice of such hearing shall be sent by certified mail by the applicant to all abutters, including those persons owning property directly across any road or way upon which the premises is located. Furthermore, notice of such hearing shall be given by publication in a newspaper distributed within the Town at least seven days prior to such hearing at the discretion of the Board of Health; if the Board requires such notice publication, the applicant must bear the cost. If publication is required by the Board, the Board will send the notice to the newspaper and procure a check from the applicant made out to the newspaper. Such notice shall give the time and place of the public hearing, the name and address of the public hearing, the name and address of the applicant, the exact location of the proposed tenant farm and each plot thereon and the types and numbers of animals to be located at the farm and/or each plot. The Board may reduce or vary the notice publication and the abutter notification requirements under exceptional circumstances upon written request from the applicant stating the reasons supporting the request.
- (h) **Amended Permit.** A separate application shall be filed by the owner and tenant operator for each additional tenant operation that is proposed to be added to a previously permitted site. The Board may require a public hearing in consideration of factors including but not limited to the type and number of animals, the existing and proposed conditions of the farm, the owner's or operator's history of compliance with the regulations and a request for

a hearing by an abutter. Where a public hearing is required, the procedures set out in section 4(e) shall apply.

- (i) Board Authority. The Board may grant or deny the application, request additional information and place reasonable conditions on the granting or renewal of a permit to ensure that the operation complies with the regulation and will not otherwise cause a nuisance or have an adverse impact on public health or safety, the environment or the animals' health or safety. Any permit may be revoked at any time by the Board for cause as may be determined at the sole discretion of the Board.
- (j) Piggery & Equine Permits. A piggery or equine permit issued in accordance with the Board's separate piggery and equine regulations shall substitute for a tenant farm permit where the only animals kept by the tenant operator at the farm are pigs or equines permitted under the applicable regulations.

5. OPERATIONS:

- (a) Unsanitary Conditions. All tenant farms shall be operated and maintained to prevent unsanitary conditions.
- (b) Infestation: All areas where livestock is kept shall be maintained in such a manner that prevents the infestation of the livestock with internal parasites and the premises with external parasites or vermin and in such a manner that prevents the spread of infectious or contagious diseases.
- (c) Confinement. All livestock shall be confined by fencing, corrals or other structural means to the property or plot boundaries for which a permit is granted. The means of confinement shall be adequately designed, installed and maintained to restrict the livestock to the boundaries of the permitted area. At no time shall livestock be allowed to roam onto another person's property.
- (d) Manure Management.
 - 1. A plan for the handling of manure and other manure-related wastes shall be filed as part of the permit application. The plan shall address the cleaning, composting, storage, fly control utilization and/or removal of manure and related wastes.
 - 2. Manure shall not be stored within 100 feet of a dwelling.
 - 3. All manure disposal or storage areas shall be at least 100 feet from any groundwater well used as a potable water source.
 - 4. All manure shall be managed to prevent unsanitary conditions or the contamination of groundwater or surface water. No manure, garbage or putrescible matter shall, except in the cultivation of and use of soil in ordinary methods of agriculture, be put on the ground within 150 feet of the high-water mark of any surface water.
 - 5. Manure shall not be piled or stacked in a manner where stormwater or flooding will carry the manure into surface waters. A buffer zone of perennial vegetative cover of sufficient width shall be maintained adjacent to all surface water and tidal marshes and to roads located downgrade and off site of the farm as prescribed in the Board of Health's Domestic Animal / Livestock Regulation (1994).

6. Manure shall be managed to prevent an infestation of flies. Any product used for fly control shall be approved by the United States Department of Agriculture or the Massachusetts Department of Agricultural Resources.
- (e) Shelter. Adequate shelter from the weather shall be provided consistent with the types and numbers of livestock located on the farm. Buildings shall be of substantial construction, properly ventilated and designed so that accumulations of unsanitary material can be readily removed. All buildings used for the housing of animals shall be kept in a clean and satisfactory condition. Any building erected as a new or renovated structure is subject to applicable Town by-laws as well as Building Department and Conservation Commission regulations.
- (f) Water Source. A water supply adequate for animal consumption and cleaning purposes shall be provided.
- (g) Feeding Bins. All methods of feeding shall be designed in such a way that livestock can be excluded from the feed storage bins or areas.
- (h) Garbage Bins. If a waste material is used as feed for animals (feed waste), a bin or similar containment structure for receiving feed waste shall be provided, which shall be covered during warm weather. Cans, wagons and trucks used to transport feed waste shall be thoroughly cleansed after the feed waste has been removed therefrom.
- (i) Solid Waste Rules. All State and Town by-laws and regulations pertaining to the transportation and disposal of solid waste, including but not limited to the prohibition of the burial or burning of manure or solid waste other than permitted agricultural materials, are incorporated herein by reference.
- (j) Piggery and Equine Regulations. Where the piggery or equine regulations establish additional or more stringent requirements for the operation and maintenance of piggeries and stables, tenant farm owners and operators shall be required to comply with those requirements.

6. INSPECTIONS:

- (a) Right to Inspect. All tenant farms and plots will be examined as necessary by an Agent who may issue orders as necessary to ensure the farm is permitted, located, and operated in accordance with these regulations. Inspections may be conducted with or without prior notice to the operator.
- (b) Access. Any Agent or designee of the Board of Health in conducting routine inspections or in response to a complaint regarding its operation may enter upon a tenant farm or plot and enter any buildings or parts thereof, enclosures or places in which livestock is kept, occupy or fed to conduct inspections of the operations and the animals to determine if the farm or plot complies with these regulations and the permit or any order issued by the Board in regard to the operation or permit. Acceptance of a permit shall be deemed consent for such entry and inspection.

- (c) Interference. It is a violation of these regulations to prevent, obstruct or interfere with an inspector or other person having like authority in the performance of their duties or hinder, obstruct or interfere with their making such inspection or examination or remove any animal for the purpose of preventing it from being inspected.

7. ENFORCEMENT:

- (a) Non-Criminal/Criminal Disposition. The Board of Health or its authorized Agents shall enforce the regulations and permits and may pursue all civil and criminal remedies for violations. Violations of the regulations may be enforced by criminal complaint in accordance with M.G.L. c. 111, §31B. Violations of the regulations may also be enforced by non-criminal disposition as set forth in M.G.L. c. 40, §21D and the Town by-laws.
- (b) Injunctions. If a person violates the provisions of these regulations or of any permit, notice or order issued thereunder, the Board may seek injunctive relief in a court of competent jurisdiction to restrain the person from activities that would create further violations or to compel the person to perform abatement or remediation of the violation.
- (c) Procedure. The following procedure shall govern the notification and assessment of penalties of violations except as otherwise determined by the Board.
 - 1. Notify the person(s) in writing of the nature of the violation(s) and the number of days in which the violation must be corrected.
 - 2. If a violation is not corrected within the time period set out in the notice, the person shall be subject to a \$100.00 penalty for failing to comply with time period to correct the violation plus a \$10.00 a day penalty for each day the violation continues after the time period set in the notice.
- (e) Orders. The Board or its Agents may issue a written order to enforce the provisions of this regulation, which may include without limitation:
 - 1. Cease and desist from actions in violations of the regulations;
 - 2. Actions to remediate conditions that violate the regulations or otherwise cause a nuisance or adverse impact on public health, safety, the environment or the health and safety of the animals;
 - 3. Removal of any or all of livestock; and
 - 4. Suspension and/or termination of operations and the revocation of the permit.

It is a violation of these regulations not to comply with any lawful order or direction of the Board, its Agents or their designees.

8. VARIANCE:

The Board of Health may grant a variance to any provision of these regulations when, in its opinion, the strict enforcement would do manifest injustice and does not jeopardize public health, safety or the environment or the livestock's welfare. The notification and public hearing procedures set out in Section 4(e) shall apply to a request for a variance. Any variance for accessory structures granted by the Board of Health will transfer with the sale of the property.

9. APPEALS:

The decisions or orders of the Board shall be final. Further relief shall be to a court of competent jurisdiction.

10. SEVERABILITY:

Each of these regulations shall be construed as separate. To the end that, if any regulations, clause or phrase thereof, should be held invalid for any reason, the remainder of the regulations and all other regulations shall continue to be in force.

11. EFFECTIVE DATE:

This regulation shall be effective as of **March 1, 2019**. The regulation will remain in effect until modified or repealed by the Westport Board of Health.