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Methuen Board of Health

Article 3

"Regulation Governing the Keeping of Animals and Fowl" 2006 MAY 25 PM 12:06

Section 3-1. Authority

These regulations are adopted under the authority of MGL chapter 111, section 31, as reasonable health regulations designed to protect and improve the health and quality of life of those who reside within the City of Methuen. These regulations shall take effect as of the date of their approval as indicated below.

Section 3-2. Statement of Purpose

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

Section 3-3. Definitions

Abutters: owners of abutting land or property within three hundred (300) feet of the applicant's property line. A person will only qualify as an abutter for the purpose of this regulation if they possess an ownership interest in the abutting land.

Accessory Structure: a structure subordinate to the principle building on the same lot and serving an animal related use.

Animal: all animals such as, but not limited to, cattle, goats, sheep, swine, equines, llamas, poultry, pigeons, large animals, livestock, 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.

Applicant: one who applies for a permit to keep one or more animals or fowl, or to adopt from the Health Department.

Board of Health or Board: the Methuen Board of Health.

City: means the City of Methuen and its officers, agents and employees including the health department.

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

Corral: any pen, loft or enclosure for the confining of one or more animals.

Department: the Methuen Health Department.

Dwelling: any building, shelter or structure used or intended for human habitation.

Exotic: refers to an animal not native to this region and/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 stable, pen, loft or corral.

Feral Cats: a cat born in the wild, which is no longer is domesticated or socialized to humans and has been abandoned or allowed to become free roaming.

Fowl: birds for food, hunted as game, or used for racing.

Impervious material: soils having a percolation rate greater than twenty (20) minutes per inch drop.

Keeping of Animals Permit: refers to a permit issued for the keeping or housing of one or more animals in accordance with the provisions of this regulation.

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

Lot: a parcel of land, which is or may be occupied by a building and accessory structure, including open spaces required under this Article. "Lot" includes the words "plot" or "parcel."

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

Owner: every person who alone or jointly with one or more other persons has legal title to any building, structure, dwelling or dwelling unit.

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

Pigeons: member of the Columbidea family to include "Racing Pigeons," "Fancy Pigeons" and "Sporting Pigeons as described below;"

Racing pigeons are through selective breeding has developed the distinctive physical and mental characteristics to enable it to return to its home after having been released a considerable distance from home and commonly known as Racing Homer, Homing pigeons, or Carrier Pigeons.

Fancy pigeons through past breeding have developed distinctive physical and performing characteristics clearly identified and accepted as such Fantails, Pouters, Trumpeters and other rare breeds.

Sporting Pigeons through selective past breeding has developed the ability to fly in a distinctive manner, such as aerial, acrobatics or endurance flying; such as Rollers Tipplers.

Mature Pigeons is considered a pigeon six (6) months of age and older.

Poultry: refers to domesticated or semi-domesticated birds including fowl ordinarily kept for food or eggs.

Responsible Party: each person who has care, charge, or control of any building, structure dwelling unit or as agent, executrix, administrator, administratrix, trustee, lessee or guardian of the estate of the holder of legal title.

Runoff: water from natural or unnatural sources that flows over the surface of the ground.

Stable: means an accessory building or structure used for the shelter and/or feed for one or more animals.

Stable-Commercial: a stable that is utilized for commercial purposes related to animal use, including but not limited to horse rentals and boarding of horses or other animals, for a fee.

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

Unsanitary Conditions: the facility's state of being or condition which, in the judgment of the Board of Health, are conducive to or results in, breeding of flies, creation of offensive odors, rodent infestation, liquid effluent, runoff, and/or noise, in such concentrations and/or such duration as to causes a nuisance, be injurious, maybe considered potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.

Vermin: various types of insects, bugs, and/or rodents.

Watercourse: any river, stream, drain, pond, lake, or other body of water drained by a stream, dry ditch, or other depression that will permit drainage water to empty into any waters of the Commonwealth.

Wetlands: land area or surface area so defined by Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40 and regulations promulgated pursuant thereto at 310 CMR 10.00 or pursuant to Section 404 of the Federal Water Pollution Control Act, U.S.C. 1341.

Wild Animal: any animal not normally found or kept as a domesticated animal, including but not limited to snakes, poisonous reptiles, alligators, monkeys, lions, and tigers.

Section 3-4. Permit and Application Requirements

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

- A. At time of application; the applicant for the keeping of one or more animals shall provide the Health Department with the following documents:
- B. Application(s) for a permit for the purpose of keeping animals shall be submitted on a form supplied by the Health Department for each location where animals are kept in the City. Such application shall be accompanied by the following information:
 - (1) Full name, address, and telephone number of the applicant
 - (2) Location - street address of the premises to be used
 - (3) An abutters. (Applicants for permits, at their own cost, shall obtain a list of abutters from the City Assessor's Office and said list must be submitted with application package to the Health Department.)
 - (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 Health Department within thirty (30) days.
 - (5) An informal plot plan, showing the lot borders with dimensions of area where the animals will be kept and used by animals, location of accessory structure(s), principal structure(s), abutting structure(s), confining fences and barriers; any bodies of water or surface watercourses located within one hundred (100) feet of the housing for the one or more animals, location of any septic system on the premises, location of any private wells within the perimeter of the area where the one or more animals will be kept or within one hundred (100) feet of the perimeter, showing location of manure containers, and drainage details. Also the plan shall show the locations of all lots and with the houses shown thereon within 500 feet of the proposed area for keeping of the animals.
 - (6) A written plan for the management and disposal of animal waste, storage of feed, method used to control of flies and vermin
 - (7) Stables shall be located at least one hundred (100) feet from any dwelling on abutting property.
 - (8) Property barriers such as fencing or other appropriate measures shall be installed on areas of the property where the keeping of one or more animals exists.

These barriers shall be secured in such a fashion as to prevent the escape of animal(s).

- (9) The initial applicant/application and proposed renovations shall meet and receive zoning clearance from the Building Department.
- C. For the initial application for a permit to keep animals after the effective date of this regulation, the applicant shall notify the adjacent property abutters by certified mail that an application has been filed at the Health Department for a permit to keep animals. A copy of the notification sent to the abutters and proof of notification (the green card) shall be provided to the Health Department. A hearing to grant the initial permit shall be held before the Board of Health within thirty days of filing a completed application being submitted if requested by an abutter within two weeks of receiving the notice.
- D. Fees for permits shall be determined by the Board of Health's fee schedule and shall be subject to annual review.
- E. Permits shall expire on November 30th 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.
- F. Exotic and Wild animal(s) shall not be kept within the City of Methuen limits without expressed written approval of the Board of Health or it's authorized agent and shall be in accordance of Massachusetts General Laws.
- G. 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.
- H. No person shall propose or erect, remodel, occupy or use for 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.
- I. Each facility shall have a supply of potable water available to the structure for feeding and cleaning purposes.
- J. Permits are not transferable and shall be posted in a conspicuous area.
- K. Grand Fathering Clause - Locations that have held the proper permits and approvals for the keeping of animals prior to the date of adoption of these regulations may continue to keep animals upon this location.

Section 3-5. 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 for the keeping of one or more animals designed, constructed, and/or maintained in unsanitary conditions.

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 there from. Animals at no time shall be allowed to roam unattended from the designated area as noted in the application.
3. Where appropriate an adequate structurally sound dry shelter for the one or more animals shall be maintained on the premises and within the facility.

B. The following maintenance requirements shall be maintained at all times:

1. The facility in which the one or more 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. Dead one or more animals shall be disposed of or incinerated, at an appropriate facility, within a reasonable time but in no event more than forty-eight hours (48) hours after death. Storage of deceased animal shall be in such a way to prevent odors and attraction of vermin.

C. The following are requirements for the keeping and maintenance of manure and fecal matter within the facility:

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. Any necessary equipment for storage or disposal of waste material to control vermin, insects, disease or offensive odors shall be provided.
4. Management and disposal of manure and soiled bedding shall be such as to minimize odors, breeding of flies, and the attraction of vermin. Manure shall be collected and kept in suitable pit or receptacle and at a distance of one hundred (100) feet from any dwelling. This location shall also be carefully chosen to maximize the distance from abutting properties and watercourses and with due consideration of the prevailing winds.
5. The following requirements shall apply to the use, accumulation and/or disposal of manure.
 - a. The accumulation, stock piling, and storage of manure outside of a pit or receptacle is prohibited.
 - b. If manure is disposed of by burying, the manure pit shall be no less than;
Twenty-five (25) feet from any lot line and
One-hundred (100) feet from any abutting dwelling,
One hundred (100) feet from any surface or sub-surface
watercourses, and in well-drained soil with the bottom of the pit at
least three (3) feet above maximum ground water elevation.
 - c. During warm weather, fecal matter and manure shall be treated with lime or superphosphate to minimize odors and treated with legally approved insecticides for fly control.
 - d. The dimensions and/or drainage conditions of any particular lot may, in the opinion of the Board of Health or its authorized agent, require off-property disposal of manure. In such cases, the manure shall not be put out for general town trash collection. It shall be the responsibility of the owner to dispose of manure in a safe and sanitary manner and not be allowed to accumulate on property or interior of an accessory structure.
 - e. 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 3-6 Feeding of Wild Animals

No person within the City of Methuen shall intentionally feed any wild animals,

including feral cats or dogs, with the exception of animals permitted through these regulations at his or her residence.

Section 3-7. Keeping of Pigeons

- A. All pigeons shall be confined to the loft, except for limited periods necessary for exercise, training, and competition. At no time shall pigeons be allowed to perch or linger on buildings or property of others and/or shall flight activities adversely affect adjacent property.
- B. Lofts shall be cleaned of droppings *no less* than once a week. Every means should be taken to minimize the dust created from dried waste and fecal matter.
- (1) Lofts shall be disinfected at least four times a year or as deemed necessary for clean and sanitary conditions by the Health Department.
 - (2) There shall be at least one (1) square foot of floor space for each mature pigeon kept within.
 - (3) Owners shall feed pigeons within the confines of the loft.
 - (4) Training or exercising of the pigeons shall not be undertaken during the hours of 10:00 am to 3:00 pm from June first to September first so as not to disturb yard use and enjoyment of abutting neighbors.
 - (5) Exercise shall be allowed only under the direct supervision of the owner or his designee. No one shall release pigeons to fly for exercise, training, or competition when said pigeons have been fed within the previous four (4) hours.

Section 3-8. 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 3-9. Keeping of Cats

No person, firm, or corporation shall keep or house within the City of Methuen, in any building, or on any premises in which he may be the owner, lessee, tenant, or occupant, more than six (6) cats or kittens for a period of time not to exceed ten (10) weeks.

- A. The person or corporation that houses more than six cats shall be register with the Health Department.

Section 3-10. Identification of Cats

All cats confined or at large shall be identified with a tag securely fastened to a collar or harness made out of leather or another suitable material, which is worn by the cat or identified by another, accepted (such as a micro chip or ear chip) humane way of identifying the cat.

Section 3-11. 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 at least 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 taxes pursuant to MGL Chapter 61A, or
 7. Licenses issued by DAR for operation of production agriculture or farm business.

Section 3-12. Vermin Control

The permit holder is responsible to implement a vermin control program for the facility. This plan requires approval by the Board of Health or its authorized agent and will be performed by a licensed pest control operator whenever required by law. Extermination shall be performed as deemed necessary by the Board of Health or its authorized agent.

Section 3-13. 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 shall be considered a separate offense.
- C. The person(s) who have had a permit denied or revoked shall be ordered to remove all animals from the property usually no less than 30 days or within a time frame determined by the Board of Health.
- D. The continuance of an infestation of vermin at or near the facility beyond a date specified by the Board of Health, when the owner of the facility has been ordered by an agent of the Board of Health to abate any such infestation in a safe and sanitary manner, shall be cause for revocation of permit and/or initiation of legal proceedings to eliminate said conditions.
- E. On occasion the Methuen Health Department shall find it necessary to assess an animal's owner an administration fee for the care and maintenance of their one or more animals, including unrestraint animals, which shall be determined by the Board of Health fee schedule and subject to annual review.
- F. Should Animal Control Officer, Animal Control Inspector or an authorized representative from the City of Methuen 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. The fee shall be determined by the Board of Health fee schedule and subject to annual review.

Section 3-14 Right to a Hearing

Any person or persons whom feel aggrieved by a health department 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 health department within seven days of receipt of said order.

Section 3-15. Variance

The Board of Health may grant a variance to any of 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 3-16. 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 this regulation shall continue in full force and effect.

Section 3-17. Domestic Animal Adoption Agreement

A. Shelters: Sale or Gift of an animal, dog or cat not spayed or neutered

No unclaimed dog, cat or other domesticated animals over six (6) months of age shall be released for adoption without being sterilized or without written agreement from the adopter guaranteeing that such animal will be sterilized within sixty (60) days. A deposit of at least thirty (\$30.00) must be paid at the time of adoption, twenty-five (\$25.00) to be refunded after proof of sterilization from a licensed veterinarian. Deposit will be deemed unclaimed if said animal is not sterilized within the sixty (60) days. Any dog or cat under six (6) months of age at the time of adoption shall be sterilized within sixty (60) days after reaching six (6) months of age or the deposit will be deemed unclaimed.

B. Vaccination against Rabies

- (1) Whoever is the owner or keeper of a dog, cat or other domesticated animals in the commonwealth six (6) months of age or older shall cause it to be vaccinated against rabies by a licensed veterinarian using a licensed vaccine according to the manufacturer's directions, and shall cause such dog or cat to be revaccinated at intervals recommended by the manufacturer. Unvaccinated dog, cat or other domesticated animals acquired or moved into the commonwealth shall be vaccinated within thirty (30) days after the acquisition or arrival into the commonwealth, or upon reaching the age of six (6) months whichever occurs last.
- (2) The veterinarian shall issue a metal tag with each certificate of Vaccination. The owner or keeper of dog shall securely affix tag to a collar or harness made of suitable material to be worn by the dog. This metal rabies tag bears an expiration date that indicates such certification is in still effect.
- (3) The veterinarian shall issue a metal tag and certificate of Vaccination. The owner or keeper of cat shall securely affix tag to a collar, break away collar,

or harness made of suitable material to be worn by the cat. The owner may opt to include the tag and certificate in a secure place.

C. Registration and Licenses

- (1) A person who at the commencement of a license period is, or during any license period becomes, the owner or keeper of a dog six months old or over which is not duly licensed, and the owner or keeper of a dog when it becomes three months old during a license period, shall cause it to be registered, numbered, described and licensed until the end of such license period, and the owner or keeper of a dog so registered, numbered, described and licensed during any license period, in order to own or keep such dog after the beginning of the succeeding license period, shall, before the beginning thereof, cause it to be registered, numbered, described and licensed for such period. The registering, numbering, describing and licensing of a dog, if kept in Boston shall be in the office of the police commissioner or if kept in any other town in the office of the clerk thereof.
- (2) The owner or keeper of a licensed dog shall cause it to wear around its neck or body a collar or harness of leather or other suitable material, to which shall be securely attached a tag in a form prescribed by director and upon which shall appear the license number the name of town issuing such license and the year of issue.
- (3) The new owner shall read and sign an adoption agreement stating they have the date of agreement and they have read and understand the adoption agreement and an animal control officer has reviewed it with me.
- (4) The owner shall agree to have said animal over six (6) months of age spayed or neutered within thirty (30) days or within thirty (30) days after reaching six (6) month of age or my deposit will be deemed unclaimed.

Section 3-18.

Release and Waiver of Liability and Indemnity Agreement

The owner shall agree to the following:

- A. The signing of a Release and waiver of liability and Indemnity Agreement is required in order obtain an adoption of a dog or cat from the Methuen Health Department
- B. Before applying for the adoption of a dog, ~~or~~ cat or dog, cat or other domesticated animals from the department the applicant agrees and represents:

1. That he/she has seen and spent time with the dog or cat
 2. That he/she is/are aware that dogs, or cats or other domesticated animals can sometimes without warning and for no apparent reason attack persons or their property and
 3. That being aware of this the applicant nevertheless desires to acquire and take ownership and responsibility for the dog or cat and
 4. That he/she possesses the ability to sign this Release and indemnity on their own behalf.
 5. Finally the applicant is aware that if, at any time, he or she feels unsafe in person or property as a result of possessing the dog or cat that he or she will advise the departments' animal control officers of this problem in writing and take such action as the applicant is directed to do by the department.
- C. In consideration of the adoption of the dog, or cat or other domesticated animals the applicant agrees to the following:
1. Applicant hereby releases, waives, discharges and covenants not to sue the City nor its officers, agents and employees, and releases from all liability to the applicant for any and all loss or damage, and any claim or demands therefore on account of injury to the person or property owned by or in the possession of the applicant, whether caused by the negligence of the "City" or otherwise as a result of the department at the applicants request allowing the adoption of the dog or cat,
 2. Applicant hereby further agrees to indemnify and save and hold harmless the "City" from any loss, liability, damage, or cost they may incur as a result of allowing and approving the adoption whether caused by the negligence of the "City" or otherwise. By this indemnity applicant shall indemnify and hold harmless the "City" from all actions, proceedings, claims, demands, damages, interest, costs, expenses including attorneys fees, liability or loss which the City may hereafter suffer, incur, be put to, pay or lay out to anyone hereafter, for personal injuries or property damage or claims of any kind or nature whatsoever, related to said adoption.
 3. The applicant recognizes that this adoption agreement is subject to revocation or alteration at the sole discretion of the department and is further subject to such restrictions and conditions as the department, in its sole discretion, may from time to time impose.

4. The applicant covenants and agrees that he/she shall maintain the dog or cat in a safe and healthy condition and take all reasonable measures necessary to protect third parties persons and property from injury by the dog or cat.
5. The applicant shall sign a release form, which is supplied by the Methuen Health Department and Animal Control. This release will include the above information and states the applicant fully understands that this document is a release of liability, waiver, covenant not to sue and indemnity and prior to signing it. Furthermore stating that the applicant has taken the time to read and understand the commitment they are making and having done so signs the document of in their free will.

Section 3-19. Adoption and Effect

These rules and regulations were adopted by an unamanious vote of the Methuen Board of Health, on May 23, 2006 and are to be in full force and effect on Septemebr 1, 2006. A summarized explanation of the regulations shall be published in the local newspaper circulated in the City of Methuen and a copy thereof shall be deposited in the office of the City Clerk.