

Chapter 203 STABLE LICENSING

[HISTORY: Adopted by the Board of Health of the Town of Boxford as Regulation 2-88; Updated, revised and adopted April 23, 2009; Amendments to the April 23, 2009 Regulation adopted on August 12, 2009.]

GENERAL REFERENCES

Stables –See M.G.L. Ch. 159.

§ 203-1. Statutory authority; purpose.

The Board of Health for the Town of Boxford, Massachusetts acting under the provisions of MGL c. 111, §§ 31, 122, and 155, and any other statutory authority, as amended, has, in the interest of and for the protection of public health and animal health and in the interest of protecting the quality of surface and ground waters as such impacts public health, established and adopted the following rules and regulations.

§ 203-2. Definitions.

As used in this regulation, the following terms shall have the meanings indicated:

ABUTTER -- The owner of any property sharing a common lot line with or located across a common street from the subject property.

BARN -- Any building, shelter, stable, sty, or other similar structure used for the protection and keeping of livestock.

BOARD -- The Boxford Board of Health.

COMPOSTING -- the natural degradation of manure and other organic material in an actively managed, aerobic process generating heat. Simple stockpiling of manure is not composting.

FACILITY -- the portion of a property including all structures thereon, used for containing and keeping livestock as well as for the storage or handling of manure and manure-containing products, and including but not limited to barns, shelters, sheds, ancillary buildings, paddocks, corrals, and fenced areas.

LIVESTOCK -- Equine and bovine animals, and swine.

PADDOCK -- Any and all enclosed or fenced non-turf areas for containing or displaying livestock.

PASTURE -- a fenced, turf-covered area for the containing and/or grazing of livestock.

PRIVATE WELL -- Any well or source of potable water as defined by Board of Health Regulation Chapter 202, Private Water Supply Regulations.

PUBLIC WELL -- Any system for the provision to the public of piped water for human consumption, if such system has at least 15 service connections or regularly serves an average of at least 25 individuals daily at least 60 days of the year. (Ref: 310 CMR 22.00).

STABLE -- A shelter for livestock. See also 'Barn.'

STABLE PERMIT -- A license for a facility to keep livestock issued by the Board of Health under the terms of this regulation.

TOWN -- The Town of Boxford, Massachusetts.

WETLAND RESOURCE AREA -- Any land area or surface area so defined by the Massachusetts Wetlands Protection Act, MGL c. 131, § 40, and the regulations promulgated pursuant thereto at 310 CMR 10.00, and the Town of Boxford Wetlands Protection Bylaw and regulations promulgated pursuant thereto, excluding riverfront area.

§ 203-3. Licenses; general requirements.

- A. No person shall erect, occupy or use a Facility in the Town unless a Stable Permit for such use is issued by the Board and, in such case, only to the extent so licensed. Within 12 months of the passage of this regulation, any person keeping livestock in the Town of Boxford and not having a Stable Permit shall apply for this license.
- B. Application for a Stable Permit shall be made to the Board or its Agent on a form provided by the Board.
- C. The initial and each subsequent license application submitted to the Board of Health or its Agent under this regulation shall include an accurate, to-scale drawing, which need not be an engineered drawing, with $\pm 10\%$ accuracy, showing the location of the stable, paddock, and manure storage area, and any septic system, private or public wells, abutter dwelling(s), surface watercourses and Wetland Resource Areas within 100 feet of the stable, paddock and manure storage area. Additionally, any lot lines or streets within 50 feet of the stable, paddock and manure storage area shall be shown to scale on the drawing.
- D. In addition to the information required for submission by this regulation, the applicant may also submit to the Board current or historical documentation or plans or maps for the property available from any Town or other reputable source to demonstrate compliance with the requirements of this regulation, including but not limited to septic system design and test data, submissions to the Building Inspector and Planning Board, Zoning Board of Appeals, and the Conservation Commission.
- E. The applicant shall submit to the Board, together with the permit application, an Operation/Management Plan for manure storage, handling, and disposal which shall include:
 - (1) A manure management/removal plan which includes details on frequency of manure removal from the Facility
 - (2) A Composting Plan, if any
 - (3) A control management plan for flies and rodents.
 - (4) A plan for ensuring that drainage or liquid effluent containing livestock waste products shall not be discharged in runoff, or flow over the surface of the ground onto abutting properties, a public way, or into Wetland Resource Areas.

The Operation/Management Plan shall be based on Best Management Practices as defined in instructions and requirements provided by the Board of Health.

- F. Issuance of the Stable Permit shall be conditional upon a site inspection by the Health Agent or other Agent appointed by the Board of Health to determine compliance with the provisions of this regulation.
- G. The Stable Permit shall consist of a Board of Health approved copy of the application form and to-scale drawing described in § 203-3C this regulation.
- H. The Stable Permit shall be kept on the premises for which it is issued and shall be produced upon demand of the Boxford Animal Inspector or any agent of the Boxford Board of Health.
- I. Provided that no change in the location or increase in size of the Facility is made, the Stable Permit as issued shall remain in force for the period of three (3) years. Each Facility owner shall apply for a new Stable Permit in accordance with § 203-3, Subsections B through F, of this regulation, 60 days prior to expiration of the license then in force.
- J. A modification to an existing Stable Permit shall be submitted 60 days prior to any change in the location of the manure storage area or paddock; or if any new stable is built or established; or if ownership of the Facility changes. Any new application shall be made in accordance with § 203-3, Subsections B through F, of this regulation.
- K. Provided that the application for a Stable Permit is complete and meets all requirements of this Regulation, and the required inspection has been carried out within 30 days of the completed application date, the Board of Health will issue the license within 30 days of said inspection unless deficiencies are found which must be resolved. In such case, the license will be issued within 30 days after such deficiencies have been resolved.

§ 203-4. Location.

- A. No manure storage and handling area shall be located within:

- (1) One hundred (100) feet of a Wetland Resource Area, not including any riverfront area.
- (2) Fifty (50) feet of a lot line or street.
- (3) One hundred (100) feet of wells for potable water.
- (4) The Zone I of a public water supply.
- (5) Seventy-five (75) feet of an abutter dwelling.

In the event of a conflict with future abutter structures, permits, and uses, the existing manure storage area(s), as identified by the current Stable Permit issued under this regulation, shall take precedence over and control the setback of any subsequent uses, structures, or permits on abutting properties.

- B. No paddock or livestock exercise area shall be located over the leaching facility of a subsurface sewage disposal system.

§ 203-5. Fee.

The Stable Permit fee as approved by Town Meeting action shall apply.

§ 203-6. Maintenance; general care of animals and premises.

Every Facility owner shall, as a condition of the Stable Permit,

- A. maintain all facilities in a sanitary condition and in compliance with MGL Chapter 129, Livestock Disease Control;
- B. have equipment available for any necessary storage or disposal of waste material to control vermin and insects;
- C. provide adequate shelter necessary for the comfort of any livestock on the premises, based on common and accepted standards in the agricultural community;
- D. take all reasonable precautions to prevent the spread of infectious or contagious diseases which impact on human health;
- E. provide that stalls shall be cleaned regularly and shall be of an adequate size for the comfort of the livestock contained therein, based on common and accepted standards in the agricultural community.

§ 203-7. Grandfathering and Transferability.

- A. Any person who shall have a Stable Permit issued under Boxford Board of Health Regulation 2-88 (Chapter 203 of the Boxford Code) may, at their request, be held to the standards of Regulation 2-88 as in effect prior to the amendments of April 23, 2009, until the expiration of the term of that Permit.
- B. Upon expiration of a Stable Permit issued under Regulation 2-88 as in effect prior to the amendments of April 23, 2009, any application for renewal thereof shall be submitted in accordance with Regulation 2-88 as in effect prior to the amendments of April 23, 2009, except that the Operation/Management plan (§203-3(E)), the term (§203-3(I)), fee, and inspection (§203-3(F) for the permit, and License Enforcement (§203-8) will be held to the standards of the April 23, 2009 amended Regulation 2-88.
- C. Upon transfer of a property, any existing Stable Permit shall be deemed expired and shall be renewed in the manner as specified in Section 203-7(B) of this Regulation.

§ 203-8. License enforcement.

- A. The Board of Health may deny, revoke, suspend or refuse to renew a Stable Permit upon finding by the Boxford Animal Inspector or Boxford Health Agent that the licensee has violated any of the following:
 - (1) Any provision of MGL c. 272, § 77 or 78A;
 - (2) Any provision of this regulation;
 - (3) A quarantine order;
 - (4) Applicant has made material misstatement(s) in the application for a license or renewal thereof; or,
 - (5) Failure to comply with the Operation and Management Plan approved for the facility

- B. The Health Agent or other designated agent of the Board of Health may notify the owner of the Facility against whom a complaint is lodged that the Facility will be inspected to investigate the complaint. If grounds for the complaint are found and the Facility is determined not to be in compliance with these Regulations, then the owner of the Facility will receive a written warning detailing the nature of the noncompliance, means to correct the noncompliance, the date by which the noncompliance must be corrected, and the action to be taken by the Board should the noncompliance not be corrected within the allowed time period. The Health Agent or other designated agent of the Board of Health shall re-inspect the property to determine the noncompliance has been corrected. In the event that the same noncompliance occurs at the same Facility twice more within a period of six (6) months, and written warnings are issued for each violation at the same Facility, the Board of Health may summon the Facility owner to a hearing before the Board. After such hearing, the Board may, at its discretion, levy appropriate fines and/or revoke the Stable Permit of the Facility owner.
- C. No Stable Permit shall be denied, suspended, revoked or refused to be renewed except by decision of the Board of Health after a hearing.
- D. The Health Agent or Board of Health may call on the Conservation Commission, Building Inspector, animal Inspector, Agricultural Commission or Massachusetts Society for the Prevention of Cruelty to animals for assistance with resolving a problem, or observation of possible violations of other statutes, regulations, or codes under the jurisdiction of those boards or commissions.

§ 203-9 Nuisance.

Commercial farms shall be held to the standard of MGL Ch 111 Section 125A, such that nuisance such as odor or noise from normal farming activity is allowed, but generation of odor or noise that exceeds generally accepted farming procedure shall be considered a nuisance to be abated.

§ 203-10. Variances.

The Board of Health may grant a variance from any section of this Regulation if the Board determines that it is in the public interest to so, and so long as the grant of any variance under this regulation does not result in detriment to the public health or deter from the purpose and intent of this Regulation or MGL c. 111 §155. Every request for a variance from this regulation shall be made in writing to the Board of Health and shall state the specific variance sought including the specific section(s) of this regulation which cannot be fully met and reasons for the requested relief. In response to a written request for a variance, the Board will notify the applicant of a date for a hearing to consider the variance within 45 days of receiving said request. The person requesting the variance shall also be responsible for notifying all abutters of the variance request as well as the time and place of the hearing to consider the variance. The Board of Health shall make a determination on the variance request within 30 days following the variance hearing.

§ 203-11. Appeal.

Any person aggrieved by the decision of the Board pursuant to this Regulation may seek relief therefrom in any court of competent jurisdiction, as provided by the laws of this Commonwealth.

§ 203-12. Penalties.

Whoever violates any provision of this regulation shall be punished by a fine of \$5 each day such violation continues as provided by MGL c. 111, § 157.

§ 203-13. Severability.

Each part of this regulation shall be construed as separate to the end that if any part of the regulation or sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of the regulation shall continue in full force.

§ 203-14. Effective date.

This regulation shall be effective on April 23, 2009.