

CITY OF WATERTOWN
BOARD OF HEALTH

REGULATION GOVERNING THE KEEPING OF HENS AND HONEY BEES

(See also the additional Regulation Governing the Keeping of Animals)

A. Authority

This regulation is adopted under the authority of M.G.L., Chapter 111, Section 31, as a reasonable health regulation designed to protect and improve the health and quality of life of those who reside within the City of Watertown.

B. Statement of Purpose

Whereas suburban environments present challenges, the Watertown Board of Health supports efforts towards sustainability and local food production and has adopted this Regulation to address public health and safety concerns related to the raising of backyard chickens for egg production and the raising of honey bees to support pollination of both flower and food crops, as well as honey production, and to regulate the safety and wellbeing of hens and bees kept for such purposes.

C. Definitions

Adjacent: shall mean properties of owners, and those renting or leasing from owners, that border on, and directly touch, including at the corners, the property border of the applicant.

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

Apiary: a place where honey bee colonies are kept.

Applicant: one who applies for a permit to keep one or more hens or hives.

Beekeeper: person who owns or controls hives or beekeeping equipment.

Board: Board of Health in the City of Watertown

Colony: a hive , equipment and appurtenances, including honey bees, comb, honey pollen and brood.

Coop: a structure for the keeping or housing of poultry

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

Facility: the total accommodations to be used for the keeping or housing and care of hens and honey bees, including, but not limited to, a henhouse, coop or hive.

Flyway: the direction bees fly leaving their colony.

Fowl: birds for food, show or hunted as game.

Generally Acceptable Agricultural Practices: shall mean those practices that the applicant can demonstrate are consistent with the Massachusetts Department of Agricultural Resources' Bureau of Animal Health's (MDAR) "Best Management Practices," and if deemed necessary by MDAR, the Massachusetts Society for the Prevention of Cruelty to Animals (MSPCA) and the Animal Rescue League.

Hen: a female chicken.

Hens/Honey Bees Permit: a permit issued for the keeping or housing of one or more hens or honey bee hives in accordance with provisions of this Regulation.

Hive: a structure intended for the housing of a honey bee colony.

Honey bee: a common domestic bee, *apis mellifera* species.

Honey: the natural food product made by honey bees from nectar collected from a flower's nectaries or a plant's extrafloral nectaries.

Indoors: the primary dwelling, garage, shed or some other facility which can be made secure against rodents or other nuisance animals.

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

MDAR: Massachusetts Department of Agricultural Resources.

Nuisance: any condition including, but not limited to, noise, offensive odor, attraction or breeding of insects, such as flies, an environment supporting the presence of rodents, or any other condition having public health or environmental significance. This definition shall be applied in a manner consistent with the provisions of M.G.L. Chapter 111, Section 125A.

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

Pen: enclosed, protective area outside, and around, the coop.

Pest Management: measures that will be taken by the applicant to minimize or control the presence of rodents and insects such as flies.

Rooster: a male chicken.

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

City: means the City of Watertown and its officers, agents and employees including the Health Department staff.

Unsanitary Conditions: the facility's state of being or condition which, in the judgment of the Board of Health, is 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 cause a nuisance, be potentially injurious to human health, or unreasonably interfere with the health and safe enjoyment of life and property.

Usable Area: land area suitable for the raising of animals, such as pastures, fields, wooded uplands, not including wetlands, dwellings or any other area(s) as may be restricted by City, State or federal regulations.

D. Permit and Application Requirements

1. A *Hens/Honey Bees Permit* is required for the keeping of *hens* and/or *honey bees* within the *City*. A *Hens/Honey Bees Permit* application, supplied by the *Board*, shall be completed annually for each lot where *hens/honey bees* are kept and submitted with the following information, if applicable:
 - a) Full name, street address, telephone and e-mail of the *applicant*.
 - b) Street address of the *lot* where *hens/honey bees* will be kept.
 - c) Number of *hens/honey bee hives* to be kept.
 - d) A plot plan, acceptable to the *Board*, showing the lot borders with dimensions of the *facility*, location of potable water, *dwelling* areas, fences, location of septic systems, and private wells. The plot plan shall also show all structures on all adjacent properties.
 - e) A plan for *hens'* food storage and waste disposal.
 - f) A plan for emergency evacuation of the *hens*.
 - g) A plan for the management of pests such as rodents and insects.
 - h) Reasonable information demonstrating knowledge of the care and feeding of the *hens/honey bees* obtained from sources, including, but not limited to, work-related experience, 4H involvement, Department of Agricultural Resources trainings, or involvement with *hens/honey bees*-related associations.
 - i) Plan for disposal of *hens*, if applicable.

2. As part of the application process, the *applicant* must, to the best of his/her ability, submit a list of *adjacent* owners and those renting or leasing from those adjacent owners. The expectation is that the *applicant* will have attempted to discuss his/her intent to apply for a *permit* to have *hens/honey bees* prior to submitting the application. The *Board* will notify the *adjacent* owners, and those renting or leasing from those adjacent owners, by letter, of the date, time and location of the hearing regarding the application. *Adjacent* owners, and those renting or leasing from those adjacent owners, will be invited to the hearing to give testimony regarding the application. Those who cannot appear at the hearing may submit comments in writing no later than 4 PM on the day of the hearing.
3. Applications may be submitted at any time and will be reviewed for completeness by Health Department staff. *Applicants* will be notified if additional information is required. Once the application is complete, and at least ten days prior to the hearing, the *applicant* and *adjacent* owners, and those renting or leasing from those adjacent owners, will be notified of the date, time and location of the hearing, which will be scheduled at the next available regularly scheduled *Board* meeting. This process will take approximately thirty days. Within forty-five days after the close of the hearing, the *Board* shall issue a decision on the application and the *applicant* will be notified in writing.
4. After the initial application process has been completed, there will be an annual renewal in order to update any information that has changed over the past year. This renewal will not require a hearing unless the Board is required to address a complaint.
5. Fees for *permits* shall be determined by the *Board* and shall be subject to annual review.
6. *Permits* shall expire on December 31st of each year, unless sooner revoked by the *Board* upon violation of any of the provisions of this Regulation.
7. No person shall erect, remodel, occupy or use any *accessory structure* intended for the housing of *hens or honey bees* unless and until he/she has submitted an initial or revised plan to the *Board* for review and the same has been approved.
8. *Permits* are not transferable.
9. An *applicant* must comply with all federal, state and local regulations and ordinances.
10. The *Board* reserves the right to suspend the issuing of permits during times of confirmed animal disease outbreaks, such as but not limited to, avian influenza.

E. General Requirements for the Keeping of Hens

1. A maximum of six (6) *hens* may be permitted. No roosters are allowed.
2. The setbacks required for the keeping of *hens*:
 - a. *facility* may not be located in the front yard; or the side yard, if bordering a public way, unless there is a solid fence blocking the sight lines from the public way.
 - b. hen house must be at least ten (10) feet from the primary dwelling and at least thirty-five (35) feet from a neighboring primary dwelling.
 - c. the *pen* must be located at least ten (10) feet from the side and rear lot lines.
3. An enclosed hen house shall provide at least three (3) square feet of floor space per *hen* and a fenced *pen* shall provide at least ten (10) square feet of pervious surface per *hen*.
4. The *hen* house must have a hardware cloth floor or two feet of hardware cloth sunk into the ground on all sides to prevent rodents from burrowing into the *hen* house.
5. *Hen* house structure shall not interfere with any utility or other features of the property that require suitable access.
6. The *pen* must be closed on all sides and the top for the security of the *hens* and to prevent escape into the neighborhood, not to exceed eight feet in height.
7. The *Board* reserves the right to require solid fencing on the property lines if necessary to prevent a *nuisance* condition from existing.
8. The floor and grounds of the *facility* shall be designed, constructed and maintained in accordance with *generally acceptable agricultural practices*.
9. Potable water must be available for use at the *facility*.
10. The *facility* shall be adequately ventilated and provide protection from weather.
11. Adequate food and water shall be provided. Food shall be stored in sealed, moisture and rodent-proof containers kept *indoors*.
12. Liquid and/or solid waste may not be discharged in *runoff* onto neighboring properties, public ways, waterways or wetlands. Water, including *drainage*, shall not collect and become stagnant or create a ponding affect on the *facility*.

13. The permit holder shall provide for the sanitary storage and disposal of all waste in accordance with all local, state and federal regulations. Permit holders may not put waste out for general curbside city trash collection. No more than a thirty (30) gallon metal trash can of animal waste may be allowed to be stored in the *facility*.
14. The *Board* may allow composting of waste if done according to strict guidelines in rodent-proof containers and in a manner so as to not become a *nuisance*.
15. The *permit* holder shall maintain the *facility* in a sanitary manner to eliminate the creation of *nuisance* pests such as insects and rodents and in accordance with *generally acceptable agricultural practices*.
16. The *Board* shall retain the right under this *permit* to order evaluation and extermination by a licensed pest control operator at the owner's expense if *nuisance* conditions are deemed to exist.
17. The creation of *nuisance* conditions may result in the revocation of the *permit*.
18. No eggs produced can be sold but monetary donations may be accepted. In general, they are considered for the use of the *permit* holder or others to whom they are given.
19. *Hen* feed left over from feeding may not remain past dusk in an area accessible to rodents or other pests.
20. *Hens* shall not be subject to debeaking or forced moulting.
21. All *hens* shall be cared for in a humane manner.
22. *Hens* may not be slaughtered on a residential property within the *Town*.

F. General Requirements for the Keeping of Honey Bees

1. A maximum of two (2) *colonies* may be kept on an average 5,000 sq. ft. *lot*. *Applicants* who believe that they have sufficient space for additional *hives* may request a variance from the *Board*.
2. *Beekeepers* shall maintain their *apiaries* in such a manner that they shall not become a public *nuisance* and in accordance with generally acceptable agricultural practices.
3. Each *hive* shall not exceed five (5) feet in height and twenty (20) cubic feet in size.
4. A constant supply of fresh water shall be provided for all *hives*; stagnant water

that could provide a breeding area for mosquitoes is not permitted.

5. *Honey* produced under this permit may not be sold but monetary donations may be accepted. In general, it is considered for the personal use of the *permit* holder and those to whom it may be given.

6. Setbacks, Placement and *Flyways*:

(a) Setbacks

- i. Where there is a wall, solid fence or similar barrier between the subject property and adjacent property, no setback from the property line is required. Where there is no wall, solid fence or similar barrier between subject property and adjacent property, *hives* shall be set back five (5) feet from the property line.
- ii. *Hives* shall not be located in the front yard.
- iii. *Hives* may not be placed in a side yard that abuts a street unless there is a wall, solid fence or vegetative barrier in place.
- iv. *Hives* placed on a roof must be set back six (6) feet from the edge of the roof.
- v. *Applicants* who have lots greater than 5,000 square feet or the *dwelling* has an unusual location on the lot may request a variance from 6(a)(i & ii).

(b) *Hive* Placement and *Flyways*

- i. The *hive* opening must be located to provide the longest *flyway* possible on any given lot.
- ii. For *hives* being placed within twenty (20) feet of the doors and windows of the principal building on an abutting lot, either of the following conditions must exist:
 - a. the *hive* opening must face away from doors and/or windows; or
 - b. a flyway of at least six (6) feet in height comprised of a lattice fence, dense hedge or similar barrier must be established within three (3) feet of the entrance to the hive and shall extend at least two (2) feet in width on either side of the hive opening.

7. Beekeepers should be aware of the signs of potential swarming and should be prepared to manage swarming behavior resulting from their hives.

G. Violations and Enforcement

1. **Responsibility for Compliance:** It shall be the responsibility of the *permit* holder to ensure compliance with all sections of this Regulation.

2. **Non-Criminal Disposition:** Any person who violates the terms of this Regulation shall be subject to a fine under the non-criminal disposition Ordinance authorized by M.G.L., Chapter 40, Section 21 D and the Town Ordinance 0-91-031, 0-92-032 and 0-94-40. Each violation and each day of non-compliance shall constitute a separate offense.

Fines:

- a. \$25 for the first violation
- b. \$50 for the second violation within 24 months of the date of the first violation
- c. \$100 for the third violation within 24 months of the date of the first violation

3. **Enforcement:** Enforcement of this Regulation shall be by the *Board* or its designated agent(s). Any citizen who desires to register a complaint pursuant to this Regulation may do so by contacting the *Board* or its designated agent(s) and an investigation will be done.
4. **Additional Remedies:** In the alternative, or in addition to the above, this Regulation may be enforced through any other means available at law as deemed appropriate by the *Board*, including, but not limited to, civil enforcement for injunctive relief, and/or the suspension or revocation of any current permits and/or licenses issued by the *Board* in accordance with applicable law. When a permit has been denied or revoked, all animals must be removed from the property within thirty (30) days of said denial or revocation or within a time frame determined by the *Board*.
5. **Cooperation with Inspections:** Refusal to cooperate with inspections pursuant to this Regulation could result in the suspension or revocation of a permit.
6. **Hearings:** The *permit* holder of the *facility* shall be given written notice of the *Board's* intent to hold a hearing for the purpose of suspension, revocation or refusal to renew a permit. This written notice shall be served through a certified letter sent return receipt requested, or by a constable. The notice shall include the date, time and location of the hearing. The *Board* shall hold the hearing no later than twenty-one (21) days from the date the written notice was received. Any person or persons aggrieved by the *Board's* order that has been served pursuant to any section of this Regulation may request a hearing before the *Board* by filing a written petition to the Health Department within seven days of receipt of said order.
7. **Variance:** The *Board* may grant a variance to any of the provisions of this Regulation when, in its opinion, the strict enforcement would do manifest injustice and the variance would not jeopardize public health or the environment.

H. Severability

If any provision of this Regulation is declared invalid or unenforceable, the other provisions shall not be affected thereby but shall continue in full force and effect.

I. Effective Date

This Regulation shall become effective on May 1, 2016. This Regulation is an update and addition to the "Regulations Governing the Keeping of Animals and Fowl," which became effective September 11, 2009 and is now in addition to the "Regulation Governing the Keeping of Animals" which will also become effective on May 1, 2016.

Voted this 20th day of April, 2016 by the Watertown Board of Health.

Approved as to Form by Kopelman & Paige on March 30, 2016

A Public Hearing was Held on April 20, 2016

Legal Notice in the Watertown Tab on April 29, 2016