

SECTION XIV: KEEPING OF NON-COMMERCIAL FARM ANIMALS

A. Purpose and Authority

To provide minimum standards for the keeping of non-commercial farm animals in the Town of Eastham to protect the public health, the Eastham Board of Health, in accordance with and under the authority granted by Massachusetts General Law (M.G.L.) Chapter 111, Sections 31, 122, and 155, has promulgated and voted to adopt the following regulation for keeping of non-commercial farm animals.

B. Applicability

The following regulations apply to the keeping of non-commercial farm animals, as defined below, in the Town of Eastham. These non-commercial farm animals may be permitted on lots containing a minimum of 20,000 square feet of buildable upland (30,000 for horses and cows) in all zoning districts except zoning districts where such uses are prohibited, subject to the requirements found in these regulations and other applicable state and local laws and regulations.

C. Definitions

Abutter – owners of the abutting land or property within three hundred (300) feet of the area of the property where the applicant proposes to keep the animals. A person will only qualify as an abutter, for the purpose of this regulation, if he or she possesses an ownership interest in the abutting land or property.

Animal shelter – an open or closed structure providing protection from wind, cold, rain and sun considered appropriate for the animal(s) in question. This includes barns, stables, open sheds, coops, hutches, pens, pigsties, rabbitries.

Buildable upland – land which is an area without exposed groundwater and that is not subject to the jurisdiction of the Eastham Conservation Commission pursuant to the Massachusetts Wetlands Protection Act, M.G.L. c.131, section 40 and regulations promulgated pursuant thereto at 310 CMR 10.00: Wetland Protection; and /or by the Eastham Conservation Bylaw and the regulations of the Eastham Conservation Commission (see Wetlands definition below).

Farm animal – any animal which is not commonly kept as a household pet and which is normally and has historically been kept and raised on farms in the United States, including, but not limited to alpacas, cows, ducks, emus, geese, goats, horses, sheep, pigs, llamas, ostriches, rabbits, turkeys and chickens.

Feed management plan – a plan for the keeping and management of animal feed.

Manure management plan – a plan for the handling of manure, which should address cleaning, composting, storage, utilization and removal of manure.

Non-commercial farm animal – any farm animal kept on a residential property primarily for personal use where sale of the animal or animals or their byproducts such as wool, eggs, etc., is incidental to the principal use of the property and the reason for keeping the animal.

Permit holder – any person who has received a permit issued by the Health Department to keep non-commercial farm animals.

Pest management plan – plan which defines the measures that shall be taken by the permit holder to minimize the presence of rodents, insects and pests, and to minimize the creation of odors and other nuisances.

Wetlands – any bank, riverfront area, fresh water wetland, coastal wetland, beach, dune, flat, marsh, meadow or swamp bordering on the ocean or on any estuary, creek, river, stream, pond, or lake, or any land under said waters or any land subject to tidal action, coastal storm flowage, or flooding , as defined by the Massachusetts Wetlands Protection Act, M.G.L. c.131, section 40 and regulations promulgated pursuant thereto at 310 CMR 10.00: Wetland Protection; and /or by the Eastham Conservation Bylaw and the regulations of the Eastham Conservation Commission.

D. Permits and Application Requirements

1. Effective January 1, 2022, No person shall keep a non-commercial farm animal on any property within the Town of Eastham without a permit issued by the Health Agent, except for those with 3 or fewer rabbits or a total of less than 4 ducks and chickens.
2. Application Requirements
 - a. Applications for a permit for keeping non-commercial farm animals shall be submitted along with the fee determined by the Select Board to the Eastham Health Department on a form approved by the Board of Health.
 - b. Applications shall include the following information:
 - i. Contact information - name, mailing address, phone, e-mail of permit applicant, and property owner(s) (if different), including emergency contact numbers.
 - ii. Location – street address of the premises to be used.
 - iii. List of proposed animals (number and species).
 - iv. A certified plot plan or reasonable substitute of the entire lot, with dimensions of the area where animals will be kept and exercised and the location and dimensions of the shelters, food storage and waste collection sites within the area, the location of the primary residence structure(s), fences, abutting structure(s), septic systems, private wells and wetlands (within 100 feet of the area where animals will be kept, including exercise area). All plans should be drawn to scale or accompanied by a written statement of dimensions and the plan should specify whether animal shelters will be new or existing structures. New or proposed structures may be hand drawn on existing plans.
 - v. An animal care plan as specified in Section E.4 below.

- vi. If the applicant is not the owner of the property, documentation must be provided establishing that the property owner consents to the keeping of animals on the property.
- vii. Annual water test results for routine parameters of on-site private well, or municipal water connection confirmation.
- c. The applicant shall be required to comply with all other applicable laws, including but not limited to any applicable requirements of the Town's Zoning Bylaws, the State Building Code and/or any applicable requirements of the Conservation Commission. If the Animal Control Officer, Health Agent or other authorized agent, or the Board of Health, determines that a building permit may be needed, the applicant will be instructed to apply for a building permit with the Eastham Building Department. The Building Department will determine what approvals are needed, and will coordinate this with the applicant. All such building and zoning requirements must be met before the permit is issued by Animal Control Officer, Health Agent or other authorized agent.
- d. If the Animal Control Officer, Health Agent or other authorized agent, or Board of Health determines that the location for keeping a farm animal identified in the permit application may impact or be in the jurisdiction of the Conservation Commission, the applicant will be responsible for contacting the Eastham Conservation Agent to determine whether additional review may be required.
- e. All such building, zoning and conservation requirements must be met before the permit is issued by the Health Agent or other authorized agent.

3. Permit Requirements

- a. The permit shall not be transferable to other animals of a different species, or assignable or transferable for the use of other persons or for the use on other premises.
- b. Permits will be valid from January 1 through December 31, unless sooner revoked or suspended as set forth in Section G of this regulation.
- c. A permit holder must apply for a renewal of the permit at least thirty (30) days prior to the expiration of the permit.
- d. An inspection by the Eastham Animal Control Officer, Health Agent or other authorized agent shall be conducted before a permit may be issued or renewed.
- e. If the permit holder intends to increase the number of animals or change the species of animals to be kept prior to the end of the permit year, the permit holder must notify the Health Department and receive an amended permit prior to bringing any such animals to the property.
- f. All non-commercial farm animals kept under a permit issued by the Health Agent shall be registered on the permit, with exception of animals less than 3 months of age. The permit holder shall notify the Health Department within thirty (30) days of the animal reaching 3 months of age.
- g. For properties served by private wells, the permit will include a requirement that well water be analyzed annually by a certified laboratory for routine parameters.
- h. Persons keeping such animals prior to the effective date of these regulations may continue to do so for the life of the animals being kept provided that they apply for a permit within thirty (30) days after the effective date of this regulation; that they comply with Sections E.1 and E.4, and that they have maximum feasible compliance with the other provisions of these regulations as determined by the Health Agent or other authorized agent, or by the Board of Health.

i. It shall be a condition of any permit issued under this regulation that the permit holder shall comply with all applicable federal, state, and local laws, regulations and other requirements.

E. Basic Requirements

1. General Care

- a. Areas in which such animals are kept shall be subject to inspection by the Animal Control Officer, Health Agent or any agent authorized by the Town.
- b. All such animals kept in the Town of Eastham shall be effectively kept and controlled so as not to become a nuisance, due to excessive noise, odor or other condition, or a danger to their own health or the public health. Allowing animals and/or animal waste to pollute any wetland or waterway is prohibited.
- c. All animals shall be maintained on the premises of the permit holder.
- d. No owner or keeper shall willfully or through neglect allow or permit any infestation of insects or vermin, or allow any condition which interferes with the use and enjoyment of neighboring properties through unreasonable noise, odor or other offensive condition.
- e. All non-commercial farm animals kept in the Town of Eastham shall be provided with the appropriate food, water, shelter, and veterinary care in accordance with their characteristic needs and with generally recognized and accepted practices.
- f. All animals shall be maintained in a clean and healthy condition, shall be properly vaccinated and shall not be subject to abuse, mistreatment or malnourishment.

2. Minimum Lot Size

| ANIMAL TYPE | MINIMUM BUILDABLE UPLAND |
|---------------------------------------|---------------------------------|
| Horses & Cows | 30,000 sf |
| All Other Non-Commercial Farm Animals | 20,000 sf |

3. Setback Requirements (in feet)

In addition to any setback requirements of the Town’s Zoning Bylaws, the Wetlands Protection Act and regulations, the State Building Code, and/or any other applicable law, all compost manure piles shall meet the following set back requirements:

| | Compost Manure Pile |
|---------------------------|----------------------------|
| Street/Way | 50ft |
| Abutter’s Property Line | 50ft |
| Private Water Supply Well | 100ft |
| Public Water Supply Well | 400ft |
| Wetland | 100ft |
| Public Beaches | 200ft |

4. Animal Care Plan

No permit(s) shall be issued until an Animal Care Plan has been submitted to and approved by the Animal Control Officer, Health Agent, or other authorized agent of the Board of Health.

Animal Care Plans shall account for all animals under the purview of these regulations. Animal care plans shall include, but not be limited to information on the following items:

- a. Feed storage - the owner shall provide for vermin-proof and insect-free storage of dried animal feed.
- b. Barn/Shelter cleaning and maintenance routine.
- c. Waste Management Procedures
 - i. All animal waste shall be managed in accordance with an Animal Care Plan approved by the Animal Control Officer, Health Agent, or other authorized agent of the Board of Health. Animal waste may be either removed from the property or composted on the premises or stored temporarily (not to exceed two (2) consecutive weeks). No manure or used bedding shall be permitted to remain outside the barn or stable unless collected in compost piles.
 - ii. All animal waste stored or composted must be contained on site and shall be located to prevent runoff from entering any wetland or waterway, including drainage ditches.
- d. Animal Shelter Minimum Provisions (see appendix 3 for more information on shelter size guidelines).
 - i. Light and Ventilation:

All structures used for the sheltering of animals shall have appropriate light and ventilation.
 - ii. Stables and Barns:
 - 1) All barns and stables shall have in a conspicuous location, a class 1 fire extinguisher (minimum of 5 lb. ABC or equivalent) which is pressure tested annually or has a gauge.
 - 2) All barns and stables shall be of durable construction and kept free from decay and damage, and in a clean and sanitary condition, free from insect and rodent infestation.
 - 3) All stalls and pens shall be constructed in accordance with the Livestock and Poultry Best Management Practices Handbook, compiled by the UMass Extension: <https://www.mass.gov/files/documents/2016/08/nu/livestock.pdf> , as may be updated from time-to-time, or such other Best Management Practices Manual as may be approved by the Board of Health.
 - 4) Barn floors shall have at a minimum one of the following:
 - Stall rubber matting over a proper base material.
 - Two (2) to three (3) inch thick wooden planks laid over good drainage material.
 - 5) Bedding cleaned and changed in a routine and timely manner.
 - iii. Coops/Rabbitries:

All structures shall be of durable construction and kept structurally sound, free from decay and damage, and in a clean and sanitary condition, free from insect and rodent infestation, and constructed to prevent predators from gaining entry.

5. Maximum Number of Animals

The maximum number of animals (of each type) permitted may depend on the size of the proposed area for keeping the animals, as well as other factors determined by the Eastham Animal Control

Officer, Health Agent or other Agent authorized by the Town, or the Board of Health. Such determination will be made based on facts and circumstances of each application to ensure that keeping of animals does not result in a public nuisance or a danger to public, environmental or animal health.

F. Variance

1. All variance requests will be considered by the Board of Health at a public hearing.
2. Variance to any section of this regulation may be requested in writing to the Board of Health.
3. Variance requests shall include a completed application, reason for the request, copy of the letter sent to abutters, certified mailing receipts and an application fee to be set by the Select Board. When such a request is received, a hearing shall be scheduled as per F. 4.
4. Notice of the public hearing relative to the request shall be provided to all abutters by certified mail by the Applicant and by legal notice in a local newspaper of general circulation by the Eastham Health Department. Both forms of notice shall provide for at least fourteen (14) days' notice prior to the public hearing.
5. The applicant must demonstrate that the issuance of a permit with the requested variance(s) will not be detrimental to the public welfare and would not endanger the animals, the health, safety or welfare of the occupants, visitors, or abutters to the property, or the environment, and that all other applicable requirements of this regulation have been satisfied. The Board may impose conditions, safeguards and other limitations on a variance consistent with public health, safety and welfare and the environment.

G. Appeals

1. All appeal requests will be considered by the Board of Health at a public hearing.
2. Appeals to any section of this regulation may be requested in writing to the Board of Health.
3. Appeal requests shall be filed within 21 days of receipt of the determination or Order, include a copy of or specific reference to the determination or Order being objected to, and a statement of the reasons for the objection.

H. Penalties and Enforcement

1. If there is a violation of this regulation or the conditions of any permit issued pursuant thereto, the Animal Control Officer, the Health Agent, or a designated agent, may issue a written order ("Order") to the person or persons having control of the premises and to the permit holder (if different) to correct the offending deficiencies as required.
2. In accordance with Massachusetts General Law Chapter 111, Section 31, any violation of this regulation shall be subject to fines of up to \$1,000 for each offense. Each day the violation continues shall be considered a separate offense. Nothing contained herein shall preclude the Board from seeking equitable relief to enforce this regulation.
3. Any person who violates this regulation or the conditions of any permit issued pursuant thereto may be penalized by non-criminal disposition as provided by Massachusetts General Laws, Chapter 40, Section 21D and the Town of Eastham's Non-Criminal Disposition Bylaw. If non-criminal disposition

is elected, then any person who violates any provision of this regulation, the conditions of a permit, or an order to correct issued pursuant thereto shall be subject to the following penalty:

| OFFENSE | PENALTY |
|-------------------------------|----------------|
| FIRST | \$50.00 |
| SECOND | \$100.00 |
| THIRD AND SUBSEQUENT OFFENSES | \$200.00 |

4. The Animal Control Officer or Health Agent may modify, suspend, revoke or deny a permit if a permit holder is found to be in violation of any provision of this regulation or the conditions of any permit or order to correct issued pursuant thereto after a hearing.

5. Any person to whom an Order to Correct or permit modification, suspension or revocation has been served pursuant to this Section shall have the opportunity to request a hearing before the Board of Health. A request must be made in writing within fourteen (14) days after the Order has been served. For the purposes of this Section, an Order shall be deemed to have been served on the date of receipt of certified mail, except as stated otherwise on the Order. At the hearing, the person served with the Order shall be given an opportunity to present evidence and show why an Order should be modified or withdrawn. The terms of the order shall remain in effect and shall be complied with unless and until the order is reversed or modified by the Board.

6. This regulation is intended to further the objectives of and to act in concert with any existing federal, state and local laws concerning the maintenance of property, the keeping of animals and the abatement and prevention of nuisances, sources of filth and causes of sickness within the Town. Nothing in this regulation is intended to limit or restrict the authority of the Board of Health, the Animal Control Officer or the Health Agent to act in accordance with any other law within their jurisdiction, including but not limited to the authority of the Board of Health to abate nuisances pursuant to Massachusetts General Laws, Chapter 111, Sections 122-125A. The election of one remedy by the Board shall not preclude enforcement through any other lawful means.

Appendix 3 Guidelines on Animal Shelters

Animal Shelters shall be of sufficient size to ensure that the animal has shelter from the weather and sufficient room for the animal to be housed, stand, lie down, turn around freely, and fed in a humane manner in accordance with best management practices.

| ANIMAL TYPE | SHELTER SIZE ^{1,2} (Minimum Sizes) | |
|--------------------------|---|----------------|
| Alpaca/Llama | 6'x8' stall per animal | |
| Cows | <i>Bulls are prohibited</i> | |
| Calves (birth -6 months) | 30 sf per calf | |
| Weaned (6-24 months) | 35-40 sf per calf | |
| Mature Cow | 75 sf per cow | |
| Goats | | |
| Large Breed | 12 sf per animal | |
| Small Breed | 10 sf per animal | |
| Sheep | | |
| Ewes with lambs: | 20 sf per pair | |
| Weaned lambs | 10 sf per lamb | |
| Lambing Pen: | 20-25 sf per pen | |
| Ram Pen: | 20-30 sf per ram | |
| Horses/Ponies/Donkeys | Stall Size | Ceiling Height |
| Miniature Horse | 6' x 8' | 8' |
| Small (Under 900 lbs.) | 10' x 10' | 8' |
| Riding (900-1100 lbs.) | 10' x 12' | 12' |
| Small Draft | 12' x 14' | 12' |
| Large Draft | 16' x 16' | 12' |
| Foaling | 2X stall size for single animal | |
| Pigs | <i>Due to pigs sensitivity to the elements, shelter from direct sunlight & rain is required</i> | |
| 40 lbs. | 2.5 sf per animal | |
| 60 lbs. | 3.3 sf per animal | |
| 100 lbs. | 4.7 sf per animal | |
| Over 250 lbs. | 10 sf per animal | |
| Chickens | | |
| Large Breeds | 2-3 sf per bird | |
| Bantam Breeds | 1 sf per bird | |
| Other Animals: | | |
| Ducks/Geese/Turkeys | 10-15 sf per pair | |
| Emus | 10-15 sf per pair | |
| Ostriches | 60-80 sf per pair | |
| Rabbits | Hutch Size | Ceiling Height |
| | 12 sf per rabbit | 3' |

¹ The Center for Agriculture, Food, and the Environment, UMass Amherst, U Mass Extension/Crops, Dairy, Livestock, and Equine Program, [Fact Sheets https://ag.umass.edu/crops-dairy-livestock-equine/fact-sheets/livestock](https://ag.umass.edu/crops-dairy-livestock-equine/fact-sheets/livestock); University of New Hampshire Co-op Extension, Resources <https://extension.unh.edu/resource/housing-and-space-guidelines-livestock>

² Note: Where dimensions are provided in square feet, applicants may convert to X by Y dimensions (ex. 50ft. x 100ft.) for purposes of calculating usable area..