

**KEEPING OF HORSES-TOWN OF STOW MASSACHUSETTS
BOARD OF HEALTH REGULATION**

AUTHORITY TO PROMULGATE AND OTHER PROVISIONS

The Board of Health, Town of Stow, Massachusetts, acting under the authority of Chapter 111, Sections 31 and 155 of the General Laws of the Commonwealth of Massachusetts and any amendments or additions thereto, and by any other powers thereto enabling, have in the interest of and for the preservation of the public health, duly made and adopted the following regulation for the establishment, maintenance, and operation of private and public stables and the keeping of horses within the Town of Stow.

Effective date of this regulation: January 6, 2006

PREAMBLE: The use of the application process can be considered twofold - it allows the town to monitor the activities of animal use, and it provides the state with a more accurate census of animals in the area for the purpose of future planning in regards to bioterrorism and disaster management.

A: DEFINITIONS

Agricultural Exemption: Chapter 128: Section 1A, Farming, agriculture, farmer (See attached)

Barn/Stable: Any building or structure where a horse is sheltered or maintained, or a portion of a building used for such purpose

Certified Plan: A plan drawn and stamped by a Registered Professional Engineer or Land Surveyor for NEW construction

Dwellings: Every building or shelter (existing or proposed) used or intended for human habitation or periodic human activity (e.g. garage, storage buildings, etc.)

Existing Stable: A structure that currently exists which either historically was used for stabling horses or is currently suitable for stabling horses

Horse: The word horse shall include ponies, colts, mules, donkeys and any other solid hoofed animal

Keeping of Horses: Stabling or housing horses

Lot Size: Square footage of lot including all dwellings

Manure: Manure shall mean feces and urine soaked bedding

Managed Waste: A manure stockpile or compost pile containing manure shall be managed with a method to prevent a nuisance

New Stable: A structure to be erected on a property where no suitable stabling currently exists

Nuisance: Any condition including malodor, contamination of runoff water, noise, attraction of insects or other vermin, and any other conditions that have public or environmental health significance

Paddock: A fenced area associated with stabling of horses including pasture & exercise ring

Persons: Shall include an individual, partnership, corporation, firm, associates, or group, including a city, town, county, or other governing unit

Private: Properties on which members of the general public do not have access to on a regular basis

Public: Shall be used to reference any property upon which the public (persons outside the immediate family) have access to for the following reasons, including but not limited to: sales or rentals of horses for any lawful purpose, training, lessons, and sales of animal products or by-products for financial gain. It shall also mean any property where labor, money, or goods is exchanged for a service.

Public Records Plan: A plan derived from the examination of existing public records located in the Board of Health, Planning Board, Conservation Commission, and/or Assessors offices

B. LICENSE TO STABLE

All horses in the Town of Stow shall be maintained in a private or public stable and in compliance with these regulations except in the case of agricultural exemptions.

An applicant shall disclose whether he/she is the owner of the premises, where the horse shall be stabled and if not the owner, he/she shall state the name and current address of the owner of the premises along with written authorization from said owner of record to stable a horse or horses.

After the initial licensing period, no person shall keep a horse until the Board of Health has issued a license to stable and an inspection has been conducted by the Animal Inspector. Applications for a license to stable shall be made in writing on a form provided by the Board of Health and accompanied by the required information.

Upon the sale of property every new owner of record shall apply for a continuing license for an existing stable within 45 days. An existing license to stable a horse(s) will be issued to the new owner of record within 60 days of the transfer of the property.

The license to stable fee shall be established by the Town of Stow in accordance with the general bylaws of the Town. The appropriate fee (Private/\$25.00, Public/\$50.00 initial fee and \$25.00 annually thereafter) shall accompany all applications at the time of filing.

C. MANURE MANAGEMENT PLANNING

Manure management is significant in protecting the quality of surface and ground water supplies, to control disease transmission and to minimize noisome odors and flies.

Manure shall be collected on a regular basis from stables and paddocks. The collected manure shall be:

1. placed in a manure stockpile
2. added to a compost pile
3. spread in a pasture in a manner consistent with good agricultural practices and USDA guidelines

If managed waste is proposed to be located within 100 feet of a potable water supply well, the Board of Health shall presume that those locations have the potential to impact groundwater quality adversely. Documentation of well construction on the applicant's premises and placement

of the managed waste as far from the well as practical will be required to show that the water supply will not be adversely affected. Managed waste shall not be located within 100 feet of an abutter's well. (Wells that are drilled into bedrock, cased and capped are presumed not to be impacted.)

Managed waste proposed to be located closer than 40 feet to the lot line of a direct abutter shall be considered as potential noisome impacts to direct abutters. It must be clearly shown that the locations are:

1. visually screened or unobtrusive
2. at a distance greater than 80 feet from the direct abutter's dwelling

Managed waste proposed to be located within 100 feet of a wetland shall be presumed to potentially impact surface water quality adversely. This presumption may be overcome by proving that drainage from the waste location is away from wetlands, or there is no drainage, and a negative impact finding has been issued by the Stow Conservation Commission.

D. Waste Containment and Disposal

1. Managed Waste Location:
 - a. easily accessible from stables or paddocks
 - b. free of storm water runoff from any structure
 - c. graded to keep surface water from running over or through the waste
 - d. free of seasonal flooding
 - e. where the path of needed equipment to gather the waste will not be traversing the septic system
2. Noisome Impact Control
 - a. control odors and fly populations by covering, composting or removing waste off-site on a regular basis
 - b. if necessary, fly populations shall also be treated with fly parasites or flytraps

E. EXISTING STABLES

A plan shall be presented that is derived from public record, existing plans, or other reliable information and approved by the Board of Health. The plan shall include the following information:

1. size, shape, and location of any and all buildings on said lot and location of fencing on the lot
2. location of sources of drinking water on occupants' & abutters' property, streams, ponds, cesspools and septic systems, stable, paddock, and manure storage area
3. applicants will disclose the proposed number of horses to be kept

Any licensed stable owner who proposes to construct an addition to the stable shall apply for a building permit with the Building Inspector.

F. NEW STABLE CONSTRUCTION

1. Two (2) copies of an existing or approved certified plan for the lot or parcel where the horse will be stabled shall be submitted and shall include:

- a. location of sources of drinking water on occupants' and abutters' property, streams, ponds, cesspools and septic systems, stable, paddock, and manure storage area
- b. paddock area shall be an enclosed area of no less than 2,000 sq. ft.
- c. location and dimensions of fencing, property lines, primary residence, and direct abutters

New stable construction must comply with appropriate local Zoning Bylaw (residential district uses Section 3.2 Subsection 3.2.2.5)

- d. applicants will disclose the proposed number of horses to be kept
- e. applicants will include a manure management plan with respect to public health. Such plan will take into consideration distances from property lines to be determined by slope, runoff, (topography), and vegetation.

2. No license for a NEW stable for a single horse shall be issued unless the entire lot of land on which the stable is to be erected contains at least 40,000 sq. ft. of suitable land. No such license shall be issued for two (2) horses to be kept on any lot of land that contains less than 60,000 sq. ft. or for three (3) horses on any lot of land that contains 80,000 sq. ft. Licenses for any additional horse(s) shall be subject to review by the Board of Health.

3. Any substantial change to an approved plan, including but not limited to a change in use (i.e. private-public), change in location of fencing, or manure stockpile, requires notification of the Board of Health.

G. VARIANCES

The Board of Health may vary any section of these health rules and regulations with respect to any particular case when in its opinion:

- the enforcement thereof would do manifest injustice
- the applicant has proved that the same degree of environmental/public health protection required under these rules and regulations can be achieved without strict application of the particular section

Every request for a variance shall be made in writing and shall state the specific variance sought and the reasons therefore. No variance request shall be considered until the applicant has legally notified all abutters by certified mail, return receipt at his/her own expense at least ten (10) days before the duly noticed Board of Health hearing will take place. The notification shall state the specific variance sought and the reasons therefore. Proof of receipt of said notification by all applicable abutters must be filed with the Board of Health prior to the hearing.

The Board of Health may impose conditions, safeguards, and limitations, both of time and use to which the variance pertains. If the rights authorized by a variance are not exercised within one (1) year from the granting of such variance(s) they shall lapse.

Any variance granted by the Board of Health shall be in writing. Any denial of a variance shall also be in writing and shall contain a brief statement of the reason(s) for the denial. A copy of the variance shall be available to the public at all reasonable hours in the office of the Board of Health while it is in effect.

H. APPEAL PROCESS

Any person aggrieved by a decision of the Board of Health in enforcement of these regulations may request a hearing before the Board of Health by filing within seven (7) days following receipt of a written order, a written petition requesting a hearing on the matter. Upon receipt of such petition, the Board of Health shall set a time and place for such a hearing and shall inform the petitioner thereof in writing. After the hearing, the Board of Health shall sustain, modify, or withdraw the order or suspend or revoke the license and shall inform the petitioner in writing of the decision. If the Board of Health sustains or modifies the order, it shall be carried out within the time period allotted in the original order or in the modification. Any person aggrieved by the decision of the Board of Health may seek relief therefore in any court of competent jurisdiction as provided by the laws of the Commonwealth of Massachusetts.

I. ENFORCEMENT

Upon any violation of these regulations a written "Notice of Noncompliance" shall be issued by the Board of Health. It shall include the correction to be taken with a specific time frame. The "Notice of Noncompliance" shall be issued to the property owner and shall become part of the file of any license holder.

Failure to respond to a "Notice of Noncompliance" and/or failure to take corrective action required shall result in a show cause hearing before the Board of Health.

Any person violating the provisions of these regulations may be subject to a fine of \$100.00 through the process of noncriminal disposition after a written warning has been issued. Each day of noncompliance shall constitute a separate violation. A "Notice of Noncompliance" shall be considered a written warning for the purpose of this section.

The Stow Board of Health, after a written warning and a show cause hearing, may revoke a Stable License for cause if a license holder fails and/or refuses to follow the provision of these regulations.

J. SEVERABILITY

If any regulation, paragraph, sentence, clause, phrase, or word of these regulations shall be declared invalid for any reason severable whatsoever, that decision shall not affect any other provision of these regulations which shall remain in full force. This regulation can not be changed or altered without the Board of Health holding a duly noted Public Hearing.