

## **TOWN OF MASHPEE BOARD OF HEALTH**

### **KENNEL REGULATION**

#### **SECTION 1 Purpose**

This Kennel Regulation creates minimum standards for properties on which dogs and cats are bred, sold, trained and/or boarded, so that risks to the health and welfare of animals, as well as the human population, may be minimized; and to further ensure that dogs and cats bred and sold from properties within the Town are healthy and free from communicable disease.

#### **SECTION 2 Authority**

In recognition that the appropriate operation of a kennel has the potential to be injurious to public health and the environment, this Regulation is adopted by the Mashpee Board of Health in accordance with and under the authority derived from M.G.L. c. 111, §§31, 122.

#### **SECTION 3 Definitions**

For purposes of this regulation, the following definitions shall apply:

- 3.1 “Animal” shall mean dog and/or cat.
- 3.2 “Owner” Shall mean the Kennel License Holder.
- 3.3 “Kennel” shall include any of the following:
  - A. “Dog and cat kennel” shall mean any building, lot, structure, enclosure or premises, or portion thereof, where more than three (3) dogs or cats three months old or older are kept or maintained for any purpose (MGL 140 S. 137A).
  - B. "Personal kennel" shall mean a pack or collection of more than three (3) dogs or cats three months old or older (MGL 140 S. 137A),\_owned or kept under single ownership, for private personal use; provided, however, that breeding of personally owned dogs may take place for the purpose of improving, exhibiting or showing the breed or for use in legal sporting activity or for other personal reasons; provided further that selling, trading, bartering, or distributing such breeding from a personal kennel shall be to other breeders or individuals by private sale only and not to wholesalers, brokers, or pet shops; provided further that a personal kennel shall not sell, trade, barter, or distribute a dog not bred from its personally-owned dog; and provided further, that dogs temporarily housed at a personal kennel, in conjunction with an

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animal shelter or rescue registered with the department, may be sold, traded, bartered, or distributed if the transfer is not for profit. A personal kennel on less than 3 acres of land must apply for a variance from the Board of Health.

- C. "Commercial boarding or training kennel" shall mean an establishment used for boarding, holding, day care, overnight stays or training of animals that are not the property of the owner of the establishment, at which such services are rendered in exchange for consideration and in the absence of the owner of any such animal; provided, however, that a commercial boarding or training kennel shall not include an animal shelter or animal control facility, a pet shop licensed under section 39A of chapter 129, a grooming facility operated solely for the purpose of grooming and, not in the normal course of business, boards or cares for animals owned by others.
- D. "Commercial breeder kennel" shall mean an establishment, other than a personal kennel, engaged in the business of breeding animals for sale or exchange to wholesalers, brokers, or pet shops in return for consideration.
- E. "Veterinary kennel" shall mean a veterinary hospital or clinic that boards dogs or cats for reasons in addition to medical treatment or care; provided, however, that veterinary kennel shall not include a hospital or clinic used solely to house dogs or cats that have undergone veterinary treatment or observation or will do so only for the period of time necessary to accomplish that veterinary care.

3.4 "Unsanitary Conditions" shall mean that state of being of a facility which, in the opinion of the Board of Health, constitutes a nuisance, source of filth or cause of sickness, or that poses a threat of nuisance, source of filth or cause of sickness, including but not limited to any or all conditions that are conducive to or result in:

- breeding of flies
- creation of malodors
- vermin infestation
- the release of liquid effluent
- runoff that is not properly contained
- disease carriers
- odor and/or noise that exceeds generally accepted farming standards
- dust in such concentrations and of such duration as to be injurious or, on the basis of current information, potentially injurious to human health

3.5 "Vermin" shall mean any of various destructive insects or small animals including, but not limited to flies, mosquitoes, lice, mice, and rats.

3.6 "Wetland" shall mean any area defined as a wetland under M.G.L. c. 131, §40, 310 CMR 10.00, the Wetlands Protection Act, and the Town's Wetlands Protection Bylaw, as amended from time to time.

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### SECTION 4 Exemptions

For the purposes of this regulation, Canine (“Doggie”) Day Care is not deemed a kennel; however, overnight boarding of more than three (3) dogs shall constitute meeting the definition of a kennel under Section 3.

### SECTION 5 Minimum Standards

- 5.1 Kennels shall meet all of the standards set forth in the following table of minimum standards:

Category	Minimum Standard
A. Housing and Primary Enclosures	Dogs and cats shall be housed in structurally sound facilities and primary enclosures that are in good repair and of adequate size, consistent with Section 5.2 of this Regulation. The facility shall contain the animals and protect them from other animals and extreme weather and temperatures. Floors and drainage systems shall be in good repair. Cages/crates shall be kept dry and clean, and allow animals easy access to food and water. Outdoor enclosures shall protect animals from sunlight, precipitation and extreme temperatures. No kennel, enclosure, or animal exercise area shall be located over the leaching facility of a surface disposal system.
B. Operations	The number of staff assigned on any given day shall be sufficient to care for the number of dogs and cats kept. Staff shall observe the animals daily to assess overall health and behavior; any deviation in animal health shall be addressed expeditiously and appropriately. Kennels shall provide and cause each dog kept therein to wear, while it is at large, a collar or harness of leather or other suitable material, to which shall be securely attached a tag upon which shall appear the number of such kennel, the name of the town issuing such license, and the year of issue. Any animal found to be off the premises and unaccompanied by the license holder or owner, or employee of the license holder or owner, shall be deemed to be in violation of this Regulation. The keeping of records shall be comply with all requirements of Section 7 of this Regulation.
C. Feeding and Watering	At least once each day or at appropriate intervals to maintain healthy weight, animals shall be provided with nutritious, palatable food that has been properly stored, is free from contamination, and is served in a clean receptacle. Potable water must be made available twice daily for one hour, if it is not available all the time.
D. Handling	Dogs and cats shall be properly treated at all times by handlers, whether petting, working, feeding, crating, or transferring them.

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E. Compatibility	Female animals in heat must be separated from male animals except for breeding purposes. Additionally, 1) animals with vicious dispositions should be housed apart from other animals; 2) puppies and kittens should be separated from adult animals other than their mothers; and 3) different species of animals should not be housed together unless compatible.
F. Veterinary Care	Programs of disease control and prevention, euthanasia, and veterinary care must be established and maintained under the supervision and assistance of a veterinarian.
G. Routine Care	Dogs and cats shall be provided with appropriate health care, including preventative care. Animals shall be afforded grooming necessary to ensure health and comfort. Animals shall be provided with daily positive human contact and socialization.
H. Water Supply	An adequate supply of water shall be provided for watering and washing of animals, and for cleaning purposes.
I. Ventilation	Dogs and cats shall be provided with (1) cool air or increased ventilation if the ambient temperature is above 85 degrees Fahrenheit or (2) heat if the temperature falls below 45 degrees Fahrenheit.
J. Lighting	Facilities shall be lit well enough to allow safe and easy access for feeding, cleaning and thorough inspection, and to provide a regular lighting cycle for dogs and cats.
K. Animal Waste	Animal waste shall be removed from the premises at a minimum of once per week and, until removal, shall be stored in a container or area to prevent odor, flies and run-off. Such material shall not be composted.
L. Cleaning and Sanitation	The interior of a facility shall be substantially impervious to moisture and able to be easily cleaned and sanitized. Primary kennels/enclosures and food and water receptacles shall be cleaned daily and sanitized at least once weekly. Trash and other waste shall not be allowed to accumulate.
M. Pest Control	Kennels shall have an effective program to control insects, ectoparasites, and avian and mammalian pests. Tightly-covered vermin-proof storage of food shall be provided.
N. Transportation	License holders shall provide dogs and cats with adequate space, ventilation, and shipping containers during transportation.
O. Emergency Plan	Kennels shall maintain an adequate emergency preparedness plan for the type of facility owned and breeds of dogs and cats maintained therein.

- 5.2 Primary enclosures must be large enough to allow the dogs and cats to sit, stand or turn around comfortably without overcrowding. New and expanded kennel facilities approved by the Board of Health after July 1, 2023, shall comply with the following square footage requirements:

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- A dog weighing less than 15 pounds shall have a minimum of four square feet of flat floor space.
- A dog weighing 15 to 30 pounds shall have a minimum of eight square feet of flat floor space.
- A dog weighing more than 30 pounds shall have a minimum of 12 square feet of flat floor space.
- The primary enclosure for a cat shall be not less than two and one-half square feet per cat. The height of the primary enclosure shall not be less than two feet. The primary enclosure for a cat must contain at least one elevated resting area for each cat.

### **SECTION 6 Minimum Setbacks**

Kennels shall adhere to the following minimum setbacks:

- Not less than 200 feet from any building used for human habitation, any church, school, public building, park, playground, hospital, nursing home, or rest home except upon written permission of the Board of Health.
- Not less than 50 feet from adjoining property lot lines or the line of any street, court or passageway, unless written permission from the Board of Health is obtained after a hearing with the applicant, abutters, and any other interested parties.
- Not less than 250 feet from the high water mark of any source of drinking water supply or any tributary thereof, or less than 250 feet from the high water mark of any open waters flowing directly or ultimately into any source of water supply, and not less than 75 feet from any potable well.

### **SECTION 7 Record Keeping Requirements**

- 7.1 Proof of the following vaccinations shall be maintained and made available for inspection:
  - A. All puppies less than twelve (12) weeks of age shall be administered the first distemper vaccination in the distemper series.
  - B. All puppies/dogs twelve (12) weeks or older shall be administered the rabies vaccination.
  - C. The owner of a puppy/dog shall not be required to provide verification of vaccination to this section if such owner provides a written statement from a veterinarian indicating that the dog of such owner should not be given such vaccination because of a standard veterinary contraindication and that such dog does not show symptoms of the disease or diseases for which such vaccination is contraindicated.
- 6.2 Every boarding kennel, business or establishment shall maintain vaccination records of each puppy/dog for a period of one (1) year from the date of

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vaccination. Records shall be made available upon request of the Kennel Inspector(s), Board of Health or its designee.

- 6.3 Every boarding kennel, business or establishment shall maintain and make available for inspection records for each dog utilizing such facility for a minimum period of twelve (12) months from the last day of such utilization indicating; the owner's name, address, telephone number and emergency contact; duration of stay, services provided and proof of vaccinations or veterinarian's statements that vaccination is contraindicated.

### SECTION 7 Complaints

- 7.1 Upon petition of two (2) or more residents in the neighborhood of the kennel, filed with the Board, setting forth that they are aggrieved or annoyed to an unreasonable extent by one (1) or more dogs at a kennel located in the Town because of excessive barking or vicious disposition of such dog(s) or other conditions connected with the kennel that constitute a public nuisance, the Board of Health shall, within ten (10) days of the filing of such petition, give notice to the Police Chief and all parties concerned that a public hearing will be held by the Board within ten (10) days after the date of such notice. Within seven (7) days after the public hearing, the Board and Police Chief shall make an order either revoking or suspending such kennel license or otherwise regulating the operation of said kennel or shall dismiss such petition.
- 7.2 Within ten (10) days after receiving such determination and order of the Board, the license holder may appeal the Board's determination and order to a court of competent jurisdiction.
- 7.3 The Kennel Inspector(s) may periodically inspect the premises where the kennel license has been revoked and shall notify the Board if she/he finds that the kennel continues to be maintained on the premises.
- 7.4 Other complaints received regarding odor, noise, or any other nuisance or public health concern shall cause a hearing before the Board of Health.

- SECTION 8 Dead Animals.** Dead animals shall be buried, incinerated, or disposed of promptly in such a way as to prevent the attraction of flies and the generation of odors. If an animal must be destroyed, it shall be done in a humane matter. If buried, the animal shall be put in a hole, the bottom of which shall be a minimum of four (4) feet above high groundwater and covered with at least six (6) feet of compacted dirt. The burial site shall be at least fifteen (15) feet from property lines and two hundred (200) feet from any well or wetlands. The Board of Health or its Agent, must be notified of the proposed burial site in advance. If unable to contact the Board of Health in a timely manner on weekends or holidays, then the animal may be buried in accordance with the restrictions outlined above the Board of Health notified on the first working day following the burial.

**SECTION 9 License Application Process and Requirements**

- 9.1 As of January 1, 2008, kennels shall comply with all applicable zoning requirements.
- 9.3 Prior to applying for a kennel license through the Town Clerk's Office, applicants shall provide the location, size, and number of kennels existing and/or proposed to the Board of Health, and make a written request for approval.
- 9.4 The Board of Health shall hold a public hearing before a license may be granted.
- 9.5 The applicant shall notify all abutters within 300 feet of the proposed facility, of the intent to operate a kennel at the intended location and the date, time and place of the public hearing.
- 9.6 The applicant shall provide to the Board evidence of abutter notification by collecting property owner's signatures OR by certified/return receipt requested letter on a form describing the kennel proposal. Abutters shall be notified at least ten (10) calendar days before the hearing at the applicant's expense.
- 9.7 At the applicant's expense, the Board shall place a public hearing notice in a local newspaper, stating the purpose, time, date, and location of the of the hearing, at least ten (10) days prior to the scheduled date of the hearing.
- 9.8 Upon approval, the Board shall forward its decision to the Site Plan Review Committee and the Town Clerk.
- 9.2 The applicant shall provide the location, size, and number of kennels existing and/or proposed to the Site Plan Review Committee, and make a written request for approval. The Site Plan Review Committee shall forward its approval to the Town Clerk.
- 9.4 The owner/operator shall seek the kennel license through the Town Clerk's Office within fourteen (14) days of approval by the Site Plan Review Committee. The kennel license shall specify the name of the owner, property owner, kennel and keeper(s) and the location of the kennel. All conditions set forth by the Board of Health shall be incorporated into the kennel license.
- 9.1 All kennel licenses shall expire on December 31<sup>st</sup>, in the year of issue, unless sooner revoked. Any license may be revoked at any time by the Board of Health for cause.
- 9.2 All license holders are responsible for compliance with all Town of Mashpee By-Laws and all applicable state and federal laws.

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### **SECTION 10 Variances**

- 10.1 The Board of Health may grant a variance from the provisions of this Regulation provided that the applicant can demonstrate that: 1) the enforcement thereof would impose a substantial hardship; and 2) the same degree of health and/or environmental protection require under this Regulation can be achieved without strict application of the particular section.
- 10.2 Every request for a variance shall be made in writing and shall state the specific variance sought and the reason therefor. No variance shall be granted unless the applicant has notified all parties entitled to notice of hearing by certified mail at his own expense at least ten (10) days prior to the Board of Health hearing at which the variance application will be heard.
- 10.3 At the applicant's expense, the Board shall place a public hearing notice in a local newspaper, stating the purpose, time, date, and location of the of the hearing, at least ten (10) days prior to the scheduled date of the hearing.
- 10.4 Every variance granted by the Board of Health shall be in writing and may include such conditions, safeguards, and limitations as the Board of Health deems necessary to protect public health, safety and welfare. Any denial of a variance shall also be in writing and shall contain a brief statement of the reasons for the denial. A copy of the variance shall be provided by the applicant to all abutters.

### **SECTION 11 Inspections**

- 11.1 All kennels, businesses or establishments shall maintain their kennel in a clean and sanitary manner. Violations of this section may result in relocation of the dogs/puppies to an outdoor sheltered area of the property per the Board's and Kennel Inspector's agreed upon decision.
- 11.2 The Kennel Inspector(s) shall conduct an inspection of the boarding kennel, business or establishment prior to the issuance of a kennel license on an annual basis or as necessitated ensuring such facility's compliance with the provisions of this Regulation.
- 11.3 If, in the judgment of the Kennel Inspector(s), the kennel is found not to be meet the requirements of this Regulation, M.G.L. Chapter 111, Section 122, or the State Sanitary Code 105 CMR 410.000, or where a violation of zoning requirements and/or a special license exists, the Kennel Inspector shall notify the Board in writing which may result in fines and/or court action. The Board may also impose additional conditions upon the operation of said kennel, as it deems appropriate.



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### **SECTION 12 Enforcement**

- 12.1 Enforcing officials for this Regulation are the Animal Inspector, Animal Control Officer, and Health Agent or Board of Health designee.
- 12.2 The Board of Health may deny, suspend, revoke, or refuse to renew a license for failure to comply with any provision of this Regulation.
- 12.3 The Board of Health and or its authorized agent, upon receipt of a valid complaint may reasonably conduct unannounced inspections of the facility for the keeping of animals to ensure compliance with this Regulation.
- 12.4 Any person who violates this Regulation may be penalized by non-criminal disposition as provided by M.G.L. c. 40, §21D, and shall be subject to penalties as follows:
  - First Offense - Fifty Dollars (\$50.00)
  - Second Offense - One Hundred Dollars (\$100.00)
  - Third Offense - One Hundred Fifty Dollars (\$150.00)
  - Fourth and Further Offenses - Two Hundred Dollars (\$200.00)
- 12.5 Such fines are to be assessed on a per-dog-found-on-the-premises basis of said violator. Each day or portion thereof shall constitute a separate offense. If more than one, each condition violated shall constitute a separate offense.
- 12.6 The Town may enforce this Regulation or enjoin violations thereof through any lawful process, and the election of one remedy by the Town shall not preclude enforcement through any other lawful means.
- 12.7 Persons who have had a license denied and or revoked shall be ordered to remove all dogs and cats from the property within thirty (30) days of said denial and or revocation, or within the timeframe determined by the Board of Health.
- 12.8 The continuance of any violation of this Regulation beyond a date specified by the Board of Health, when the Owner and or license holder of the facility has been ordered by an agent of the Board of Health to abate any such violation in a safe and sanitary manner, shall be cause for revocation of license and or initiation of legal proceedings to eliminate said condition.

### **SECTION 13 Interaction with Other Laws and Regulations**

- 13.1 All facilities shall be maintained and animals shall be kept in accordance with applicable federal, state and local law. It shall be the applicant's responsibility to ensure compliance with such laws and the issuance of a license shall not authorize the maintenance of a facility or the keeping of animals in violation of any other applicable statute, rule or regulation.

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- 13.2 This Regulation is intended to further the objectives of and to act in concert with any existing federal, state, or local laws concerning the maintenance of property, the keeping of animals and the abatement of nuisances, including but not limited to the Town's Zoning Bylaws.
- 13.3 Nothing in this Regulation is intended to limit or restrict the authority of the Board of Selectmen, The Board of Health, The Animal Inspector, the Building Commissioner, Conservation Commission, or any other board, commission or officer of the Town to act in accordance with federal, state and local laws within their jurisdiction, including but not limited to the authority of the Board of Health to abate nuisances in accordance with Massachusetts General Laws, Chapter 111, Sections 122-125.
- 13.4 In the case of a conflict between the requirements of this Regulation and any other federal, state or local law concerning the maintenance of facilities and/or the keeping of animals the more stringent requirements shall apply.

**SECTION 14 Severability.** If any provision of this Regulation is declared invalid or not enforceable, the other provisions shall not be affected thereby, but shall continue in full force and effect.

**SECTION 15 Adoption and Effect.** This Regulation shall be effective upon publication in a newspaper of general circulation.

Per Order Of,  
Mashpee Board of Health

Ernest Virgilio, Chairman  
John Livingston, Vice-Chairman  
Edward Raposa, Clerk

***Adopted: November 7, 2007***

***Revised: May 16, 2023 (Published 5/26/23)***