

Regulation 5A: Backyard Poultry Keeping

Section 1: Purpose and Authority:

The purpose of this regulation is to reduce/control the risk of zoonotic illnesses to humans and prevent the occurrence on nuisance conditions.

This regulation is promulgated pursuant to the authority granted to the City of Salem Board of Health by Massachusetts General Laws Chapter 111, Section 31 that states "Boards of Health may make reasonable health regulations".

Section 2: Definitions

ABUTTER shall mean the owner of properties physically abutting a property

BOARD shall mean the Salem Board of Health

PEN shall include the Chicken Coop/house and any run or other appurtenance directly congruent to the chicken coop in which the chickens are kept.

PERSON shall mean a person, persons, association, partnership, trust, company, corporation or other legal entity.

POULTY shall include, but is not limited to, chickens, guinea fowl, peafowl, pheasants,

- a. partridges, quail and turkey.
- b. YARD -- A portion of a lot, upon which the principal building is situated, unobstructed artificially
- c. from the ground to the sky and having at least two sides open to lot lines.
- d. YARD, FRONT -- A yard extending for the full width of the lot between the front line of the
- e. nearest building wall or building part not specifically excluded by § 235-25 and the front lot line.
- f. YARD, REAR -- A yard, unoccupied except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.
- g. YARD, SIDE -- A yard extending for the full length of a building between the nearest building wall and the side lot line

Section 3: Permits

1. No person shall keep poultry without first having obtained a permit from the Board of Health.
2. Permits are issued to a specific individual and are not transferable or assignable.
3. Permits expire annually on December 31st of each year

4. No poultry or eggs produced by backyard farmed poultry shall be offered for sale or used in commercial establishments
5. The number of animals kept shall be limited to six (6) birds per lot
6. No poultry shall be kept on property that is not used for residential purposes
7. The slaughter of Hens on the property is prohibited
8. No person shall keep any hens in any building used as a dwelling

Section 4: Permitting process:

- a. Applicant must submit a completed application on the prescribed form with the appropriate fee. The application shall not be deemed complete and file until all required documentation is submitted.
- b. Plans to scale with size of lot, existing structures, the henhouse, pen, fences, and distances of henhouse and pens from all abutting property lines and habitable structures.
- c. Maintenance plan describing cleaning schedule, pest and predator control measures, and nuisance prevention measures.
- d. Waste management plan that describes procedures for waste and animal disposal.
- e. Health management plan that documents that chickens are properly vaccinated and from an approved source, and procedures for managing sick or injured birds.
- f. Written statements signed by the property owner(s) granting permission for the henhouse.
- g. If the coop is in a common open space, written approval from all residents with legal access to the common space is also required.
- h. Upon receipt of the completed application and supporting documentation, the Board of Health will conduct a site inspection.
- i. The Board of Health will schedule a public hearing. The hearing date must be scheduled so as to allow a minimum of 14 days for abutter notification.
- j. Following a public hearing, the Board of Health will make a determination as to whether to grant a permit.
- k. In cases in which the coop is to be constructed after the public hearing, the Board of Health may approve a permit conditional upon a successful inspection of the constructed coop.
- l. The applicant must comply with all other laws and regulations concerning zoning and construction, and must obtain a building permit when required.
- m. Permit holders must conform to the conditions of the permit at all times, including with respect to the number of birds permitted.

n. The Board of Health may suspend or revoke a permit, after a public hearing if requested, for an applicant's failure to comply with the terms of the permit or if a public health or nuisance condition is created.

o. The Board of Health or its agent may order the immediate removal of the hens upon a determination that they pose a health risk.

Section 5: Siting and construction

1. No coop or run shall be located nearer than ten (10) feet to the principal building, and no coop or run shall be located nearer than 15 feet to any side or rear lot line. Side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel 15 feet from the side or 15 feet from the rear lot line.
2. No coop or run shall be located within any required front yard or within any side yard of a corner lot.
3. Coop space must allow a minimum of 2.5 square feet per hen and one nest box per 3 hens.
4. Runs must allow a minimum of 4 square feet per hen.
5. Coops or pens shall not be larger than 120 square feet.
6. Coops and runs shall not be located in the front yard or in a side yard that abuts a public street.
7. All coops shall be constructed in such a way and with such materials as to be easily cleanable.
8. All runs shall have a securely built frame and be designed to be predator-proof.
9. Henhouses shall not be located within 200 feet of the high water mark of any known source of drinking water supply or within 50 feet of any drinking water well.
10. The poultry keep shall ensure that runoff from the poultry coop and run does not leave their property line

Section 6: Animal Health and Welfare:

1. Chickens must be treated in a humane manner at all times, including access to fresh food and water, and protection from the elements.
2. All hens must be sourced from a Salmonella Pullorum-free flock or a hatchery participating in NPIP (National Poultry Improvement Program.).
3. In the event a hen is known or suspected to be sick or injured, the Owner is responsible for providing adequate home care or veterinary care or for humanely culling and disposing of the hen in a prompt and sanitary manner.
4. The Owner shall report to the Board of Health if any hens are diagnosed with a disease transmissible to other animals or to humans.

5. Hens must be enclosed and segregated from wild migratory fowl. They may be allowed out of the enclosure only into a securely fenced area when supervised.

Section 7: Nuisance Control:

Animal pens, runs, and adjacent lands must be maintained in a sanitary condition and free from offensive odors at all times to prevent the occurrence of nuisance conditions.

1. Noise

- a. No roosters are permitted on residential property.
- b. Perceptible noise from chickens/poultry at the property boundary must conform to all existing noise regulations and by laws.

2. Odor

- a. Odors from chickens, chicken manure, or other chicken-related substances shall not be perceptible at the property boundaries.
- b. If possible, waste must be composted with carbonaceous material such as hay, bedding, or leaves. If composting is not possible, waste must be stored in a sealed container until disposal.

At a minimum, weekly cleaning of henhouses is required. More frequent cleanings may be required as needed to prevent odor. Bedding shall be maintained dry and any wet caked manure shall be removed immediately from the chicken pen.

3. Predator and Pest Control:

A. Necessary measures must be taken to prevent a buildup of predator, pest or rodent populations due to the presence of hens on the property.

1. Chicken feed must be stored securely in a rodent-proof container.
2. Chicken feed leftover from feeding may not remain past dusk in an area accessible to rodents or other pests.
3. Pen must be enclosed with aviary netting or other predator-proof material.

Section 8: Complaints

1. Upon the receipt of a written complaint, the Board or its agent shall investigate the matter and provide a written response to the complainant and licensee. If it is determined that a hearing

should be held, such hearing will be conducted as noted in Section 10.

Section 9: Variances

1. Variance to any of these regulations may be requested in writing to the Board. When such a request is received, a hearing shall be scheduled and held in accordance with the requirements of Section 10.

2. Variances shall be granted only under the following conditions:

a) Strict enforcement of these regulations will constitute a manifest injustice, AND

b) The granting of the variance shall not in any way impair the public, the environment, or animal health.

3. The Board may impose any conditions it deems appropriate to protect the public, the environment, and animal health.

Section 10. Hearing

1. When a written request for a variance or a complaint is received, a Public Hearing shall be required.

2. The Public Hearing shall be held at the next scheduled Board of Health meeting but in no case earlier than 14 days of the request.

3. The applicant of a variance shall notify all abutters of the property as noted in Section 6.2 of these regulations.

4. The Public Hearing shall be advertised in a Legal Notice in a local paper at least 7 days in advance of the date of the hearing. The cost of the Legal Notice for a variance shall be borne by the applicant.

5. Any person to whom an Order to Correct is received shall have the opportunity to request a hearing before the Board. The request shall be in writing and received in the office of the Board of Health within seven (7) days of the date the order is served.

Section 11. Penalties

1. Any person found in violation of these regulations shall be fined, upon conviction, not more than \$1,000 per violation.
2. Any person who is issued a license by the Board and is found to be in violation of these or any other applicable regulation, may be subject to the immediate suspension or revocation of said license.
3. These regulations may be enforced by the use of the Non-Criminal citations as put forth in MGL Chapter 40, section 21D. Fines shall be \$50 for the first violation, \$100 for the second violation, and \$150 for the third and any subsequent violation.
4. Each day of non-compliance shall constitute a separate and new offense.

Section 9: Severability:

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

Effective Date: These regulations will take effect on _____

Public Hearing: _____

Vote: Board of Health _____

Legal Notice: _____

Certiifed Copy to MA DEP: _____